

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 16TH DAY OF OCTOBER, 2013 AT 6:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	James D. Politis	-Chair
	William H. Brown	-Vice Chair
	Mary W. Biggs	-Supervisors
	Gary D. Creed	
	Annette S. Perkins	
	Christopher A. Tuck	
	F. Craig Meadows	-County Administrator
	Martin M. McMahon	-County Attorney
	Brian Hamilton	-Economic Development Director
	Neal Turner	-Emergency Services Coordinator
	Steve Phillips	-General Services Director
	Steve Sandy	-Planning Director
	Ruth Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors
ABSENT:	Matthew R. Gabriele	-Supervisor
	L. Carol Edmonds	-Deputy County Administrator

CALL TO ORDER

The Chair called the meeting to order.

ADDENDUM

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the Addendum dated October 16, 2013 was added to the Agenda under Closed Meeting:

- Section 2.2-3711 (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
4. Alleghany Springs Consolidated Site

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

INTO CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.
1. Project # 2013-006
 2. Project # 2013-026
- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
1. Motor Mile Park
 2. Old Blacksburg Middle School Property
 3. Park and Ride Lot
 4. Alleghany Springs Consolidated Site
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
1. Parks and Recreation Commission
 2. Social Services Board
 3. Personnel

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Matthew R. Gabriele
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
James D. Politis		

CERTIFICATION OF CLOSED MEETING

On a motion by William H. Brown, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

William H. Brown
Mary W. Biggs
William H. Brown
Gary D. Creed
Annette S. Perkins
James D. Politis

NAYS

None

ABSENT DURING VOTE

Matthew R. Gabriele

ABSENT DURING MEETING

Matthew R. Gabriele

ADDENDUM – ADD CLOSED MEETING

On a motion by Christopher A. Tuck, seconded by Mary W. Biggs and carried unanimously, the Board agreed to add a Closed Meeting following Board Members' Reports in order to finish discussion of items listed under the Closed Meeting.

The vote on the forgoing motion was as follows:

AYE

Christopher A. Tuck
Mary W. Biggs
William H. Brown
Annette S. Perkins
Gary D. Creed
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

INVOCATION

A moment of silence was led by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATION

Resolution of Appreciation – Gerard W. (Jerry) Higgins

The Board of Supervisors presented a Resolution of Appreciation to Gerard W. (Jerry) Higgins, Director of the NRV Regional Water Authority (formerly the Blacksburg-Christiansburg-VPI Water Authority), for his 24 years of service.

The County Administrator at this time, introduced Caleb Taylor as the new Director of the NRV Regional Water Authority.

DELEGATIONS

Virginia Department of Transportation

David Clarke, VDOT's Residency Administrator, provided an update on road projects/issues in Montgomery County. Mr. Clarke reported on the following:

- Old Sourwood Road – Dirt Glue Polymer application was applied to Old Sourwood Road today. VDOT will monitor the road throughout the year to see how the road holds up during the different seasons, especially winter.
- Yellow Sulphur Road – VDOT completed the upgrade along a ½ mile section of Yellow Sulphur Road with Revenue Sharing funds. There are two more sections to be upgraded in the future with funds from Revenue Sharing and the Six-Year Road Plan for Secondary Roads.
- VDOT continues with routine maintenance throughout the County which includes some paving.
- I-81 Truck Climbing Lane project will be completed soon.
- 114 Bridge is scheduled to be completed in November 2014.
- 114 Widening Project in Christiansburg, near the NRV Mall, is scheduled to be completed in November 2014.

The Board of Supervisors reported the following road issues:

Supervisor Brown received a request for VDOT to replace the missing “School Bus Stop Ahead” sign at the intersection of Hightop Road and Merrimac Road. David Clarke replied he will contact the School's Transportation Department to determine the exact location of the signs and if it is still an active bus stop.

Supervisor Creed reported Karen Whitt, a landowner along Elliott Creek Road, asked how she can get the section of Elliott Creek Road that goes through her property abandoned. Mr. Clarke replied that VDOT has a process for the property owner to petition the Board of Supervisors for abandonment or discontinuance of roads. He will forward the information to County staff.

New River Community College

Sue Thacker, Montgomery County Representative to NRCC, presented their annual report. On behalf of Dr. Jack Lewis, President of NRCC, Ms. Thacker expressed appreciation to Montgomery County public safety personnel and first responders who assisted them last spring during the shooting spree on the NRCC Campus located at the New River Valley Mall. Dr. Lewis also sends his appreciation to the area churches and Virginia Tech for assisting in counseling the students.

Ms. Thacker reported that NRCC's enrollment is down 5%; however, this indicates the economy is stronger with more people in the workforce and not in school. The campus located at the NRV Mall has exceeded their expectations for enrollment. The campus opened in 2007 and is getting too small. NRCC is looking into the possible expansion of NRCC in Montgomery County. Ms. Thacker stated NRCC is excited to report the agreement between NRCC and Virginia Tech's College of Engineering. NRCC graduates working towards an engineering degree will be able to transfer to VT College of Engineering.

Barbara Straub, who also represents Montgomery County on the NRCC Board, provided information on the workforce development program offered at NRCC. This program provides career development, career training, veteran transitional programs, and Adult Education –GED classes. Ms. Straub pointed out that NRCC offers dual high school/college classes at all the surrounding high schools. This enables high school students to get college credits while attending high school.

The Board thanked Ms. Thacker and Ms. Straub for attending the meeting and providing information about the excellent services offered by the New River Community College.

PUBLIC ADDRESS

Harold Phillips addressed the Board about concerns with a Public Service Authority policy requiring landlords to pay all delinquent water and sewer bills for renters who do not pay their bills. The policy also requires landlords to pay a non-user fee for water and sewer when a rental property is vacant. A property lien will be placed on property that is in arrears. Mr. Phillips was told that if all delinquent bills are not paid and water service is cut off then a new connection fee will be charged. He disagrees that he should be held liable for any tenant's delinquent bills and having to pay a new connection fee after already paying the connection fee once. He asked the Board to review this policy.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the Consent Agenda dated October 16, 2013 was approved.

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Matthew R. Gabriele
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
William H. Brown		
James D. Politis		

Approval of Minutes

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the minutes dated April 22, May 6 and May 9, 2013 were approved.

A-FY-14-37 COMMONWEALTH'S ATTORNEY FORFEITED ASSET SHARING PROGRAM

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014, for the function and in the amount as follows:

200	Commonwealth's Attorney	\$1,941
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
419104	Confiscations
	\$1,941

Said resolution appropriates monies received as part of the Forfeited Asset Sharing Program from the Department of Criminal Justice Services.

A-FY-14-38
FY 13 FIRE FUND ALLOCATION

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014 for the function and in the amount as follows:

23311 Fire Program Fund Distribution	\$11,608
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
451205 Designated Fund Balance	\$11,608

Said resolution appropriates funds received from the Fire Program Fund for use by volunteer fire departments.

A-FY-14-39
PARKS AND RECREATION
APPROPRIATION OF DONATIONS
FOR CAPITAL PROJECTS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the County Capital Projects Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014, for the function and in the amount as follows:

700 Park Revitalization	\$7,500
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The source of funds for the foregoing appropriation is as follows:

<u>Revenue Accounts:</u>	
416158 Donations	\$7,500

Said resolution appropriates donated funds received for Parks and Recreation capital projects.

**A-FY-14-40
REASSESSMENT
FY 13 CARRYOVER FUNDS**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014, for the function and in the amount as follows:

153	Reassessment	\$610,000
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
451205	Designated Fund Balance	\$610,000

Said resolution carries forward funds remaining at June 30, 2013 year end for the reassessment project.

**A-FY-14-41
SHERIFF
RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014, for the function and in the amount as follows:

320	Sheriff County	\$7,963
321	Sheriff County	<u>\$1,000</u>
	Total	\$8,963

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$7,454
419104	Confiscations	<u>\$1,509</u>
	Total	\$8,963

Said resolution appropriates recovered costs and monies received from the Department of Criminal Justice Services Asset Forfeitures.

A-FY-14-42
VIRGINIA JUVENILE COMMUNITY CRIME
CONTROL ACT (VJCCCA) GRANT
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

950	General Contingencies	(\$15,779)
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TO:

520	VJCCCA	\$15,779
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Said resolution transfers funds from General Contingencies to correct an error in FY 14 approved budget related to the Virginia Juvenile Community Crime Control Act grant.

A-FY-14-43
CRAIGS CREEK ROAD
VDOT REVENUE SHARING PROJECT
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

950	General Contingencies	(\$22,498)
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TO:

930	VDOT Revenue Sharing	\$22,498
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Said resolution transfers appropriated funds from General Contingencies to VDOT Revenue Sharing for additional expenditures incurred by VDOT on the FY 10 Craig's Creek Road (SR 621) Project (VDOT Project # UPC 91587).

R-FY-14-43
ADDITION TO VDOT'S SECONDARY SYSTEM OF STATE HIGHWAYS
BLAIR STREET (SR 738)
PARKVIEW ESTATES

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The street described below is shown on a plat in the Clerk's Office of the Circuit Court of Montgomery County; and

WHEREAS, The representative for the Virginia Department of Transportation has advised the Montgomery County Board of Supervisors that the street meet the requirements established by the Virginia Department of Transportation's Subdivision Street Requirements.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia requests the Virginia Department of Transportation to add the following street to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer:

ADDITION:

Subdivision: **Parkview Estates**

Name of Street:

Length

Blair Street (SR 738)

From: Intersection of (SR 763)

To: Intersection of (SR 751)

Distance of:

0.58 miles

Recordation Reference: PB19, Page 2

Right of Way width (feet) = 50'

BE IT FURTHER RESOLVED, The Board guarantees a clear and unrestricted right-of-way of 50 feet, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

R-FY-14-44
AGENCY ON AGING
APPOINT RAYMOND E. LYONS, JR.
AS ALTERNATE

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Raymond E. Lyons, Jr.** as an **alternate** to the **New River Valley Agency on Aging** effective October 1, 2013 and expiring September 30, 2014.

R-FY-14-45
MONTGOMERY REGIONAL
ECONOMIC DEVELOPMENT COMMISSION
APPOINT PATRICK BIXLER
AS NON-ELECTED REPRESENTATIVE FOR
THE TOWN OF BLACKSBURG

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Patrick Bixler** to the **Montgomery Regional Economic Development Commission** as a non-elected representative of the Town of Blacksburg effective October 17, 2013 and expiring October 16, 2016.

OLD BUSINESS

ORD-FY-14-04
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION
OF APPROXIMATELY 1.606 ACRES
FROM AGRICULTURAL (A1) TO MULTIPLE FAMILY RESIDENTIAL (RM-1),
IN THE RINER MAGISTERIAL DISTRICT (DISTRICT D)
LOCATED AT 1534 GALLIMORE STREET, IDENTIFIED AS
TAX PARCEL NOS. 090C-2-5C AND 090C-2-5A,
ACCOUNT NUMBERS 130812 AND 070735
CARY HOPPER

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice and

therefore approves the request to rezone approximately 1.606 acres from Agricultural (A1) to Multiple Family Residential (RM-1), to allow two multifamily dwelling units in the form of one duplex and one triplex with the following proffered conditions:

1. The Property will be developed substantially in accordance with the Conceptual Layout prepared by Gay & Neel, dated August 28, 2013 (the “Concept Development Plan”).
2. No more than five (5) residential dwelling units shall be constructed on the Property.
3. Access to the existing building proposed for multi-family use shall be via the existing entrance on Gallimore Street. Access to the proposed two-family building shall be a proposed private driveway off of Blair Street. No access shall be proposed or allowed directly from Route 11. All improvements shall be at the sole expense of the developer.
4. The proposed development will preserve existing vegetation to the greatest extent possible. Proposed buffer yard shall be in conformance with the requirements of the zoning ordinance and shall be installed prior to the issuance of a certificate of occupancy. Existing vegetation can be credited towards the buffer requirements. Buffer shall not impede sight distance at the proposed or existing entrance.

The subject parcel is located at 1534 Gallimore Street and identified as Tax Parcel Nos. 090-C 2 5C and 090-C 2 5A, (Account Nos. 130812 and 070735) in the Riner Magisterial District (District D).

The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Medium Density Residential within the Plum Creek Village Plan.

This action was commenced upon the application of Cary Hopper (Agent: Gay and Neel, Inc.).

This ordinance shall take effect upon adoption.

The vote on the forgoing ordinance was as follows:

AYE

Christopher A. Tuck
Gary D. Creed
Annette S. Perkins
William H. Brown
Mary W. Biggs
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

ORD-FY-14-05

AN ORDINANCE AMENDING THE 2025 COMPREHENSIVE PLAN – PRICES FORK VILLAGE PLAN LAND USE POLICY MAP DESIGNATION OF APPROXIMATELY 8.33 ACRES LOCATED AT 4237 PRICES FORK ROAD IN THE PRICES FORK MAGISTERIAL DISTRICT, THE SITE OF THE FORMER PRICES FORK ELEMENTARY SCHOOL, FROM CIVIC TO MIXED USE

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED That the Board of Supervisors of Montgomery County, Virginia hereby finds that the proposed amendments to the Montgomery County 2025 Comprehensive Plan – Prices Fork Village Plan Land Use Policy Map meets the requirements of Section PLU 1.1.1 Policy Area Designations of the Comprehensive Plan and therefore the Prices Fork Village Plan Land Use Policy Map designation of those certain tracts or parcels of land is hereby amended from the designation of Civic to Mixed Use.

This action was commenced upon the application of the Montgomery County Planning Commission.

The property is located at 4237 Prices Fork Road and is identified as Tax Parcel No. 052-A-20 (Acct. No. 070688) in the Prices Fork Magisterial District.

This ordinance shall take effect upon adoption.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

ORD-FY-14-06

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, BY AMENDING SECTION 10-22 TO CLARIFY THAT SAWMILL, TEMPORARY USE IS A BY-RIGHT USE AND SAWMILL IS A USE ALLOWABLE BY SPECIAL USE PERMIT IN C-1 CONSERVATION DISTRICT

On a motion by William H. Brown, seconded by Annette S. Perkins and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-22 shall be amended and reordained as follows:

Sec. 10-22. C-1 Conservation District.

(1) *Purpose.* The C-1 Conservation District is established for the specific purpose of providing recreational, conservation and scenic areas for the growing population of the county and its vicinity. It is intended to facilitate the conservation of water and other natural resources, to assist the U.S. Forest Service with its conservation programs, to encourage the closure of the boundaries of the national forest within one (1) contiguous conservation area and to encourage the retention of the open space characteristic of excessive slope and floodplain areas or other areas not amenable to good development practices. This district contains all of the forest and mountain land in the Jefferson National Forest. The land area of this district is essentially undeveloped open space, except for some private holdings. This district is generally intended to apply to lands designated in the comprehensive plan as rural or resource stewardship areas.

(2) *Qualifying lands.* Lands qualifying for inclusion in this district shall be current C-1 on the date of adoption of this chapter and other lands within areas mapped as rural or resource stewardship in the comprehensive plan. Qualifying lands shall not generally include those served or planned to be served by public water or sewer service. The minimum area required to create a district is twenty (20) acres of total contiguous land.

(3) *Use permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, small scale.
- (c) Bed and breakfast homestay.
- (d) Cemetery.
- (e) Dwelling, single-family.
- (f) Game preserve.
- (g) Home occupation, as defined in this chapter.
- (h) Manufactured home, Class A and Class B.
- (i) Natural area.
- (j) Pet, farm.
- (k) Pet, household.
- (l) Public utility lines, other; public utility lines, water and sewer.
- (m) Telecommunications tower, attached.
- (n) Veterinary practice, animal hospital.
- (o) Farm enterprise.

(p) Sawmill, temporary.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Campground.
- (c) Bed and breakfast inn.
- (d) Park, unlighted.
- (e) Playground, unlighted.
- (f) Sawmill, ~~temporary~~.
- (g) Structures over sixty-five (65) feet in height.
- (h) Telecommunications tower, freestanding.

(4)(ii) The following uses may be permitted by the board of zoning appeals as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height.

(5) *Lot requirements.*

- (a) *Minimum lot area.* Two and one-half (2.5) acres.
- (b) *Density.* In addition to the minimum required lot area defined above, the maximum gross density (total number of lots per parent parcel after subdividing) for residential development in the C-1 district shall be in accord with the following sliding scale:

Parent Parcel Area	Total Lots Permitted on Parent Parcel
Less than 2.5 acres	0 lots
Less than 5.0 acres	1 lot
Less than 7.5 acres	Up to 2 lots
A 7.5 acres up to 10.0 acres	Up to 3 lots
A More than 10.0 acres	One (1) additional lot for every additional 30 acres over first 10 acres

1

All lots in the C-1 district are subject to all applicable regulations for on-site water supply and wastewater treatment, which may limit the number of lots permitted.

(c) *Lot access.* Lots shall be accessed from a road in the Virginia Department of Transportation (VDOT) system or from a hard-surfaced road designed by a professional engineer to accommodate projected volumes, loads and vehicle types and approved by the zoning administrator; except that up to three (3) lots divided from any parent parcel may be served by a private access easement at least forty (40) feet in width.

(d) *Minimum width.* One hundred twenty (120) feet at the setback line of the front yard

(e) *Maximum length/width ratio.* Five to one (5:1) for any lot of less than twenty (20) acres.

(6) *Building requirements.*

(a) *Minimum yards.*

1. *Front.* Forty (40) feet (also refer to additional setback requirements pertaining to residential uses near intensive agricultural operations, Section 10-41(16)).

2. *Side.* Fifteen (15) feet for each principal structure.

3. *Rear.* Forty (40) feet.

4. *Accessory buildings.* Ten (10) feet to rear and side lot line.

(b) *Maximum building height.* No building or structure shall exceed forty (40) feet in height, as defined, except by special use permit and that for every one (1) foot above forty (40) feet, the building or structure shall be set back an additional two (2) feet up to a maximum of one hundred (100) feet.

(7) *Use limitations.* [Reserved.]

The vote on the forgoing ordinance was as follows:

AYE

Gary D. Creed

Annette S. Perkins

William H. Brown

Mary W. Biggs

Christopher A. Tuck

James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

ORD-FY-14-07
AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING OF THE CODE OF
COUNTY OF MONTGOMERY, VIRGINIA BY AMENDING SECTION 10-41 (2A)
BY AMENDING THE DEFINITION OF TEMPORARY FAMILY HEALTH CARE
STRUCTURE TO COMPLY WITH CHANGES IN THE STATE ENABLING
LEGISLATION

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning Section 10-41 (2A) shall be amended and reordained as follows:

SECTION 10-41 (2A) Temporary Family Health Care Structures.

Subject to requirements imposed upon other authorized accessory structures a
~~Notwithstanding any other provision one (1)~~ temporary family health care structure, as shall be a permitted accessory use ~~dwelling may be placed~~ on any property zoned for a single family detached dwelling owned or occupied by a caregiver as his or her residence subject to the following:

1. Only one (1)~~The~~ temporary family health care structure (the structure) shall be allowed on a lot or parcel of land and shall be limited to one (1) occupant who shall be the mentally or physically impaired person or in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in Section 63.2-2300 of the 1950 Code of Virginia, as amended, as certified in writing by a physician licensed in the Commonwealth.
2. The structure shall have a maximum gross floor area of three hundred (300) square feet.
3. The structure shall comply with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code.
4. The structure shall not be placed on a permanent foundation.
5. The structure shall be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
6. No signage that advertises or promotes the structure shall be permitted on the exterior of the structure or elsewhere on the property.
7. Written certification verifying the status of the mentally or physically impaired occupant of the structure shall be provided by a physician licensed by the Commonwealth.
8. Evidence of compliance with this Section must be provided annually on the anniversary date of the initial zoning approval, including a current written certification by a physician licensed by the Commonwealth.

9. The structure shall be removed within ~~thirty (30)~~ sixty (60) days of the date on which the structure was last occupied by a ~~after the~~ mentally or physically impaired person is no longer receiving services or no longer in need of the assistance for which the structure was provided.

For Purposes of this Section *Temporary Family Health Care Structure* shall mean a transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, (caregiver and mentally or physically impaired are defined in §15.2-2292.1 of the 1950 Code of Virginia, as amended) that is primarily assembled at a location other than its site of installation.

The vote on the forgoing ordinance was as follows:

AYE

Annette S. Perkins
William H. Brown
Mary W. Biggs
Christopher A. Tuck
Gary D. Creed
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

ORD-FY-14-08

**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-43 (5) BY ADDING CEMETERIES TO
THE LIST OF USES THAT SHALL REQUIRE A MINIMUM
TEN (10) PERCENT TREE CANOPY PLAN SHOWN ON THE FINAL SITE PLAN
IN ORDER TO COMPLY WITH STATE LAW CHANGE**

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-43 (5) shall be amended and reordained as follows:

Sec. 10-43. Landscaping and buffering.

- (5) Tree canopy requirements.
- (a) For projects for which a site plan is required in accord with Section 10-53(3) a final site plan shall include a plan for the planting and/or replacement of trees on the site such that at maturity of ten (10) years, the minimum tree canopy shall be provided as follows:

1. Ten (10) percent tree canopy for sites zoned for, or to be used for commercial, ~~or~~ industrial uses or cemeteries.
2. Fifteen (15) percent tree canopy for sites zoned for, or to be used for residential uses.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
William H. Brown	None	Matthew R. Gabriele
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
James D. Politis		

ORD-FY-14-09
AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-51 TO CLARIFY THE VOTING REQUIREMENTS FOR
ACTION TAKEN BY THE BOARD OF ZONING APPEALS

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-51 shall be amended and reordained as follows:

Sec. 10-51. Board of Zoning Appeals.

- (1) *Purpose.* The board of zoning appeals is established to perform those duties as set forth in Code of Virginia, § 15.2-2309.
- (2) *Authority and establishment.* The board of zoning appeals heretofore established shall continue as the board of zoning appeals for the purpose of this chapter. Such body shall be known by the abbreviation "BZA."
- (3) *Membership.*
 - (a) The BZA shall consist of five (5) residents of the county, appointed by the Circuit Court of Montgomery County, Virginia.
 - (b) The term of office of the membership shall be for five (5) years, with the term of one (1) member expiring each year.
 - (c) The secretary of the BZA shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly of any vacancy. Appointments to fill such vacancies shall be only for

the unexpired portion of the term. Members may be reappointed to succeed themselves.

- (d) A member whose term expires shall continue to serve until his successor is appointed and qualifies.
- (e) Members of the BZA shall hold no other public office in the county, except that one (1) member may be a member of the planning commission.
- (f) Any BZA member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause by the court which appointed the member, after a hearing held on at least fifteen (15) days notice to the member sought to be removed.
- (g) Any member of the BZA shall be disqualified to act upon a matter before the BZA with respect to property, pursuant to Code of Virginia, ~~§ 2.1-636(11)~~ §2.2-3112.

(4) *Officers.*

- (a) The BZA shall elect, from its own membership, a chair and a vice chair who shall each serve an annual term and who may succeed themselves. The vice chair shall act as chair in the absence of the chair.
- (b) The zoning administrator shall serve as secretary to the BZA, prepare minutes of meetings, keep all records and conduct official correspondence. A court stenographer may be employed to record such proceedings as the board of zoning appeals may direct. In the absence of the zoning administrator at any meeting, the BZA shall appoint some other person to prepare the minutes thereof.

(5) *Meetings and hearings.*

- (a) Meetings or hearings of the BZA shall be held at the call of the chair, or acting chair, or at the request of any two (2) members, provided that notice thereof has been mailed or delivered to each member of the BZA at least seven (7) days before the time set, or that a waiver or notice is obtained from each member.
- (b) For the conduct of a hearing, the taking of any action, or the transaction of any official business, a quorum shall be necessary. No less than a majority of all members of the BZA shall constitute a quorum. Except for matters governed by 10-55(2) no action of the BZA shall be valid unless authorized by a majority vote of those present and voting.
- (c) The zoning administrator may not vote on matters before the BZA.
- (d) The presiding chair may administer oaths, for the benefit of the BZA, and compel the attendance of witnesses.
- (e) Every person before the rostrum shall abide by the order and direction of the chair or acting chair. Discourteous or disorderly or contemptuous conduct shall be regarded as a breach of the privileges extended by the BZA and shall be dealt with as the chair deems proper.

- (f) All hearings of the BZA shall be open to the public.
- (6) *Powers and duties.* The BZA shall have the following powers and duties:
 - (a) To hear and decide appeals as provided in Section 10-55(2), Appeals, of this chapter.
 - (b) To authorize upon application in specific cases variances from the terms of this chapter as provided in Section 10-55(1), Variances, of this chapter.
 - (c) To hear and decide appeals from decisions of the zoning administrator regarding interpretation of the official zoning map where there is uncertainty as to the location of a zoning district boundary. After notice to the owners of the property affected by any such interpretation, and after a public hearing thereon, the BZA shall interpret the map in such a way as to carry out the purpose and intent of this chapter for the particular district in question and shall be guided by the provisions of Section 10-4 of this chapter. The BZA shall not have the power, however, to rezone property or to change the location of zoning district boundaries as established by this chapter.
 - (d) To hear and decide all other matters referred to and upon which it is required to pass by this chapter.
 - (e) To make, alter and rescind rules and forms for its procedures, consistent with the ordinances of the county and the general laws of the state.
 - (f) To prescribe procedures for the conduct of public hearings that it is required to hold.
- (7) *Records.* The BZA shall cause written records and minutes to be kept of all its proceedings, showing evidence presented, findings of fact by the BZA, and the vote of each member upon each question, or if absent or failing to vote, such fact. All such records shall be filed in the office of the zoning administrator.
- (8) *Periodic report.* The BZA shall report to the board of supervisors periodically, at intervals of not greater than twelve (12) months, summarizing all appeals and applications made to it since its last previous report and summarizing its decisions on such appeals and applications. At the same time that each such report is filed with the board, copies thereof shall also be filed with the zoning administrator, the planning commission, the county attorney, and the planning director.
- (9) *Limitations.* All provisions of this chapter relating to the BZA shall be strictly construed. The BZA, as a body of limited jurisdiction, shall act in full conformity with all provisions and definitions in this chapter and in strict compliance with all limitations contained therein.
- (10) *Decisions subject to judicial review.* All decisions and findings of the BZA shall be final decisions, and shall, in all decisions and findings of the instances, be subject to judicial review in the following manner:
 - (a) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or

bureau of the county, may present to the Circuit Court of Montgomery County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the BZA.

- (b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BZA and on due cause shown, grant a restraining order.
- (c) The BZA shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with the commissioner's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (e) Costs shall not be allowed against the BZA, unless it shall appear to the court that the BZA acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BZA is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

The vote on the forgoing ordinance was as follows:

AYE

Mary W. Biggs
Christopher A. Tuck
Gary D. Creed
Annette S. Perkins
William H. Brown
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

ORD-FY-14-10
AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-54 (1)(d) BY ADDING MILITARY INSTALLATION
TO THE LIST OF PLACES PROPOSED ZONING AMENDMENTS SHALL BE
REFERRED TO FOR COMMENT IN ORDER TO
COMPLY WITH STATE LAW CHANGE

On a motion by Gary D. Creed, seconded by Annette S. Perkins and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-54 (1)(d) shall be amended and reordained as follows:

Sec. 10-54. Special development approvals.

- (1) *Zoning amendment.*
 - (d) *Staff review of application.*
 - 1. *Referrals.* Upon acceptance of the application for zoning amendment, the planning director shall forward a copy of the application to any town, ~~and any county, or~~ state agencies or military installation whose comments are necessary or desirable for full and appropriate review of the merits of the application. In the event that approval of a feature or features of the application for zoning amendment by a state agency is necessary, the agent shall forward the zoning amendment application within ten (10) business days of receipt of a completed application to the appropriate state agency or agencies for review. Requirements for review including time limitations shall be in accordance with the provisions of Code of Virginia, § 15.2-2222.1. The application for rezoning shall not be referred to the planning commission until the review by the state agency or agencies is complete.
 - 2. *Referral responsibilities.* Each reviewing agency shall prepare a staff report which sets out in writing its comments and recommendations regarding the application and shall forward such staff report to the director of planning.
 - 3. *Review of referrals.* Referral comments shall be obtained and reviewed by the director of planning within thirty (30) calendar days after a final application has been accepted. The planning director shall forward to the applicant a written review of the issues raised by the application.
 - 4. *Applicant response.* Upon receipt of the written review, an applicant may request a meeting with the director of planning to discuss the matters contained in the written review and the application generally. Such request shall be in writing and shall include a response to the matters raised in the written review received. If the applicant's response and/or such a meeting

results in an amended application, the provisions of subsection (e) herein below shall apply.

5. *Required action by other board.* In the event this chapter requires that an application not be granted until acted upon by some government board or agency other than the planning commission or board of supervisors, then the director of planning shall forward the application for amendment to such board or agency for appropriate action prior to the notification to an applicant that an application is ready to be presented to the board of supervisors or planning commission. If it deems it appropriate, the planning commission may recommend, and the board of supervisors may approve, an application contingent on required action by the other board or boards.

Report and notice to applicant. The director of planning shall compile the referrals and any other necessary information, prepare a written staff report with proposed findings and a recommendation, and notify the applicant that the report is complete and the application is ready to be presented to the board of supervisors or planning commission, as appropriate, for hearing.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Christopher A. Tuck	None	Matthew R. Gabriele
Gary D. Creed		
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
James D. Politis		

ORD-FY-14-11
AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA,
BY AMENDING SECTION 10-55 BY AMENDING CERTAIN PROCEDURES
BEFORE THE BOARD OF ZONING APPEALS
TO COMPLY WITH STATE LAW CHANGE

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-55 shall be amended and reordained as follows:

Sec. 10-55. Procedures before the board of zoning appeals.

(1) *Variances.*

- (a) *Jurisdiction and authority.* Upon application, the board of zoning appeals (BZA) shall exercise the jurisdiction and authority to grant a variance from the literal terms of this chapter in accordance with the procedures, standards, and limitations contained in this section. This authorization shall not be construed to grant the BZA the power to rezone property.
- (b) *Authorized variances.* Variances, defined as reasonable deviations from the regulations and restrictions contained in this chapter, may be granted by the board of zoning appeals only in the following instances and in no others:
 - 1. A variance from those provisions regulating the size or area of a lot or parcel of land.
 - 2. A variance from those provisions regulating the size, height, area, bulk, setback, open space, yards, or location of a building or structure.
- (c) *Unauthorized variance.* The BZA shall not be empowered to grant a variance from any of the provisions of this chapter relating to the use or density of land, buildings or structures. Nor shall the BZA grant a variance for any use or activity within the floodway portion of the floodplain overlay district if any increase in the hundred-year flood elevations would result.
- (d) *Application for variance.* Any person owning property, or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the zoning administrator for one (1) or more of the variances authorized above. The application shall contain the following information and such additional information as the board of zoning appeals may, by rule, require or as may be required by Section 10-52(1)(c):
 - 1. The particular provisions or requirements of this chapter which prevent the proposed construction on, or use of, the property.
 - 2. The existing zoning of the property, including any previously approved modifications, conditions, or proffers.
 - 3. The special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of this chapter.
 - 4. The particular hardship which would result if the specified provisions or requirements of this chapter were to be applied to the subject property.

5. The extent to which it would be necessary to vary the requirements of this chapter in order to permit the proposed construction on, or use of, the property.
6. An explanation of how the requested variance conforms to each of the applicable standards set out in subsection (g), below.

(e) *Decision on variance application.* Upon receipt of a complete application for a variance, the zoning administrator shall notify the BZA which shall, within ninety (90) days, hold a duly noticed public hearing thereon. Such public hearing shall be advertised in the manner provided by Section 15.2-2204 of the Code of Virginia, and in addition, the property shall be posted in conformity with Section 10-52(3). The BZA shall, after such hearing, either approve, deny or approve with conditions the application for a variance. Its decision shall be supported by findings of fact and conclusions with respect to the standards of subsection (g), below. No such variance shall be granted by the BZA unless it makes all of the following required findings:

1. The strict application of this chapter would produce undue hardship to the property owner.
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Such variance is not contrary to the public interest nor to the intended spirit and purpose of this chapter.
4. The granting of such variance will not be a substantial detriment to adjacent property nor change the character of the zoning district in which the property is located.
5. Such variance would result in substantial justice being done.
6. The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(f) *Planning commission recommendation.* The zoning administrator may transmit a copy of the application to the planning commission which may send a recommendation to the BZA or appear as a party at the hearing.

(g) *Standards for variances.* The board of zoning appeals shall base its required findings upon the particular evidence presented to it in each specific case where the property owner can show that:

1. The strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property because of:

- a. The exceptional narrowness, shallowness, size, or shape of the property at the time of the effective date of this chapter, or
 - b. The exceptional topographic conditions or other extraordinary situations or conditions of the property, or
 - c. The condition, situation, or development of property immediately adjacent thereto.
 - 2. The granting of such variance will alleviate a clearly demonstrable hardship ~~approaching confiscation~~, as distinguished from a special privilege or convenience sought by the applicant.
 - 3. The property was acquired in good faith.
 - 4. Satisfactory evidence exists to support all of the required findings of subsection (e), hereinabove.
- (h) *Burden of applicant.* The applicant for a variance shall bear the burden of producing evidence to support the required findings of subsection (e), above, and to establish that the requested variance satisfies the standards for a variance of subsection (g), above.
- (i) *Conditions and restrictions.* The BZA may impose such conditions and restrictions upon the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Failure to comply with any such conditions and restrictions shall constitute a violation of this chapter.
- (j) *Withdrawal of application.* A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said deadline, an application may be withdrawn only with the permission of the BZA.
- (k) *Re-application.* If a variance is denied by the BZA on the merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the BZA within twelve (12) months after the date of such denial.

(2) *Appeals.*

- (a) *Appeals from administrative ruling.* The board of zoning appeals is authorized to hear appeals from any order, requirement, decision or determination made by the zoning administrator in the administration or enforcement of this chapter. In this capacity the board exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine what the ordinance means and how the ordinance applies to a particular fact situation.

- (b) *When appeals may be taken.* Appeals to the BZA may be taken by any person aggrieved by an officer, department, board or agency of the county or affected by a decision of the zoning administrator. Appeals shall be taken within thirty (30) days after the decision has been rendered by filing with the zoning administrator from whom the appeal is taken and with the chair of the BZA a notice of appeal specifying the grounds of the appeal. The zoning administrator shall forthwith forward to the chair of the BZA all the papers constituting the record upon which the action appealed from was taken.
- (c) *When appeals to stay proceedings.* A notice of appeal properly filed as herein provided shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in the zoning administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the BZA or by a proper court order on notice to the zoning administrator and for good cause shown.
- (d) *Decisions on appeal.* Within ninety (90) days after the notice of appeal has been filed, the BZA shall hold a public hearing, give public notice thereof required by Code of Virginia, § 15.2-2204 as well as due notice to the parties in interest, decide the appeal, and file with the zoning administrator its findings of fact and conclusions with respect to the appeal. The zoning administrator shall serve a copy of the decision on the appellant and upon each other person who was a party of record at the hearing. In exercising its powers, the ~~bza~~ BZA may reverse or affirm, wholly or partly, or may modify the decision appealed from. The concurring vote of a majority of the membership of the BZA members shall be necessary to reverse a decision. If the BZA's attempt to reach a decision results in a tie vote the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.
- (e) *Withdrawal of application.* An appeal may be withdrawn by the appellant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said deadline, an appeal may be withdrawn only with the permission of the BZA.
- (f) *Proceedings to prevent construction of a building.* Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the zoning administrator to the board of zoning appeals.

- (3) *Special use permits.* Upon application, the board of zoning appeals shall exercise the jurisdiction and authority to grant use permits as authorized in this chapter. The special use permits shall be processed in accordance with the procedures, standard and limitations contained in Section 10-54(3) and other applicable law. No special use shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia, 1950, as amended.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

ORD-FY-14-12
AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA
BY AMENDING SECTIONS 10-21 THROUGH 10-36, SECTION 10-41 AND
SECTION 10-61 BY CREATING A NEW AMATEUR RADIO TOWER
USE DEFINED AS A STRUCTURE ON WHICH ANTENNA IS INSTALLED FOR
THE PURPOSE OF TRANSMITTING AND RECEIVING AMATEUR RADIO SIGNALS
ALLOWABLE BY RIGHT UNDER CERTAIN USE LIMITATIONS IN
A-1 AGRICULTURAL, C-1 CONSERVATION, R-R RURAL RESIDENTIAL,
R-1, R-2, R-3 RESIDENTIAL, GB GENERAL BUSINESS, CB COMMUNITY
BUSINESS, M-1 MANUFACTURING, M-L MANUFACTURING LIGHT, PIN
PLANNED INDUSTRIAL, PUD-COM AND PUD-RES PLANNED UNIT
DEVELOPMENT DISTRICTS AND ALLOWABLE BY SPECIAL USE PERMIT
UNDER CERTAIN USE LIMITATIONS IN A-1 AGRICULTURAL, C-1
CONSERVATION, R-R RURAL RESIDENTIAL, R-1, R-2, R-3 RESIDENTIAL, GB
GENERAL BUSINESS, CB COMMUNITY BUSINESS, M-1 MANUFACTURING, M-L
MANUFACTURING LIGHT, PIN PLANNED INDUSTRIAL, PUD-COM, RM-1
MULTIPLE FAMILY RESIDENTIAL, PUD-TND PLANNED UNIT DEVELOPMENT-
TRADITIONAL NEIGHBORHOOD DEVELOPMENT, TRADITIONAL
NEIGHBORHOOD DEVELOPMENT INFILL AND PMR PLANNED MOBILE HOME
RESIDENTIAL PARK DISTRICTS

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Entitled Zoning, Sections 10-21 through 10-36, Section 10-41 and Section 10-61 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-21. A-1 Agricultural District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, intensive.
- (c) Agriculture, small scale.
- (d) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(d)~~(e) Bed and breakfast homestay.
- ~~(e)~~(f) Cemetery.
- ~~(f)~~(g) Church.
- ~~(g)~~(h) Dwelling, single-family.
- ~~(h)~~(i) Farm enterprise.
- ~~(i)~~(j) Fire, police and rescue stations.
- ~~(j)~~(k) Home occupation.
- ~~(k)~~(l) Manufactured (mobile) home, Class A or B.
- ~~(l)~~(m) Natural area.
- ~~(m)~~(n) Park, unlighted.
- ~~(n)~~(o) Pet, farm.
- ~~(o)~~(p) Pet, household.
- ~~(p)~~(q) Playground, unlighted.
- ~~(q)~~(r) Public utility lines, other; and public utility lines, water and sewer.
- ~~(r)~~(s) Sawmill, temporary.
- ~~(s)~~(t) School.
- ~~(t)~~(u) Telecommunications tower, attached.
- ~~(u)~~(v) Veterinary practice, animal hospital.

- (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Campground.

- (e) Camp, boarding.
- (f) Civic club.
- (g) Contractor's storage yard.
- (h) Country club.
- (i) Country inn.
- (j) Custom meat cutting, processing and packaging.
- (k) Day care center.
- (l) Disposal facility, landfill.
- (m) Exploratory activities associated with extractive industries.
- (n) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (o) Game preserve.
- (p) Garden center.
- (q) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (r) Golf course.
- (s) Golf driving range.
- (t) Grain mill, feed mill.
- (u) Home business.
- (v) Junkyard, automobile graveyard.
- (w) Kennel, commercial (refer to use limitations in subsection 7).
- (x) Landfill (see Disposal facility).
- (y) Livestock market.
- (z) Park, lighted.
- (aa) Playground, lighted.
- (bb) Public utility plant, other.
- (cc) Public utility substations.
- (dd) Public utility plant water or sewer (not including distribution or collection lines).
- (ee) Recreational vehicle park.
- (ff) Recycling collection points.
- (gg) Repair shop, automotive (refer to use limitations in subsection 7).
- (hh) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- (ii) Rural resort.
- (jj) Sawmill.
- (kk) Shooting range (as principal use or accessory to a gun shop). (Refer to use limitations in subsection 7).
- (ll) Slaughterhouse.
- (mm) Solid waste collection point.
- (nn) Stable, commercial.

- (oo) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- (pp) Structures over forty (40) feet in height.
- (qq) Telecommunications tower, freestanding.
- (rr) Transition house.
- (ss) Flea market (also subject to requirements of article VI of the County Code).
- (tt) Stone engraving and sales.
- (uu) School of special instruction.
- (vv) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10- 41(20) of County Code).

Sec. 10-22. C-1 Conservation District.

- (3) *Use permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and all other applicable regulations:
 - (a) Agriculture.
 - (b) Agriculture, small scale.
 - (c) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(e)~~(d) Bed and breakfast homestay.
 - ~~(d)~~(e) Cemetery.
 - ~~(e)~~(f) Dwelling, single-family.
 - ~~(f)~~(g) Game preserve.
 - ~~(g)~~(h) Home occupation, as defined in this chapter.
 - ~~(h)~~(i) Manufactured home, Class A and Class B.
 - ~~(i)~~(j) Natural area.
 - ~~(j)~~(k) Pet, farm.
 - ~~(k)~~(l) Pet, household.
 - ~~(l)~~(m) Public utility lines, other; public utility lines, water and sewer.
 - ~~(m)~~(n) Telecommunications tower, attached.
 - ~~(n)~~(o) Veterinary practice, animal hospital.
 - ~~(o)~~(p) Farm enterprise.
 - ~~(p)~~(q) Sawmill, temporary.
- (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).
- ~~(b)~~(c) Campground.
- ~~(c)~~(d) Bed and breakfast inn.
- ~~(d)~~(e) Park, unlighted.
- ~~(e)~~(f) Playground, unlighted.
- ~~(f)~~(g) Sawmill, temporary.
- ~~(g)~~(h) Structures over sixty-five (65) feet in height.
- ~~(h)~~(i) Telecommunications tower, freestanding.

Sec. 10-23. R-R Rural Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:
 - (a) Agriculture, small-scale.
 - (b) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(b)~~(c) Bed and breakfast homestay.
 - ~~(c)~~(d) Church.
 - ~~(d)~~(e) Dwelling, single-family.
 - ~~(e)~~(f) Home occupation.
 - ~~(f)~~(g) Park, unlighted.
 - ~~(g)~~(h) Pet, farm.
 - ~~(h)~~(i) Pet, household.
 - ~~(i)~~(j) Playground, unlighted.
 - ~~(j)~~(k) Public utility lines, other; public utility lines, water and sewer.
 - ~~(k)~~(l) School.
 - ~~(l)~~(m) Telecommunications tower, attached.
- (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Cemetery.
- (d) Civic club.
- (e) Country club.
- (f) Day care center.
- (g) Fire, police and rescue stations.
- (h) Golf course.
- (i) Golf driving range.
- (j) Home business.
- (k) Park, lighted.
- (l) Playground, lighted.
- (m) Public utility substations.
- (n) Public utility plant, water or sewer.
- (o) Stable, commercial.
- (p) Telecommunications tower, freestanding.
- (q) Veterinary practice, animal hospital.
- (r) Structures over fifty (50) feet in height.
- (s) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-24. R-1 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~(b) Bed and breakfast homestay.
- ~~(b)~~(c) Church.
- ~~(c)~~(d) Dwelling, single-family.
- ~~(d)~~(e) Home occupation.
- ~~(e)~~(f) Library.
- ~~(f)~~(g) Pet, household.
- ~~(g)~~(h) Public utility lines, other.
- ~~(h)~~(i) Public utility lines, water or sewer.

~~(i)~~(j) School.

~~(j)~~(k) Telecommunications tower, attached.

- (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

(a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.

(b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

~~(b)~~(c) Bed and breakfast inn.

~~(c)~~(d) Boarding house.

~~(d)~~(e) Cemetery.

~~(e)~~(f) Civic club.

~~(f)~~(g) Country club.

~~(g)~~(h) Day care center.

~~(h)~~(i) Fire, police and rescue stations.

~~(i)~~(j) Funeral home.

~~(j)~~(k) Golf course.

~~(k)~~(l) Home business.

~~(l)~~(m) Nursing home.

~~(m)~~(n) Park, lighted or unlighted.

~~(n)~~(o) Playground, lighted or unlighted.

~~(o)~~(p) Private club.

~~(p)~~(q) Public utility plant, other.

~~(q)~~(r) Public utility plant, water or sewer.

~~(r)~~(s) Transition house.

Sec. 10-25. R-2 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and with all other applicable regulations:

(a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

~~(a)~~(b) Bed and breakfast homestay.

~~(b)~~(c) Church.

- ~~(e)~~(d) Dwelling, single-family.
- ~~(d)~~(e) Dwelling, two-family.
- ~~(e)~~(f) Home occupation.
- ~~(f)~~(g) Library.
- ~~(g)~~(h) Pet, household.
- ~~(h)~~(i) Public utility lines, other.
- ~~(i)~~(j) Public utility lines, water or sewer.
- ~~(j)~~(k) School.
- ~~(k)~~(l) Telecommunications tower, attached.

- (4) (i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.

- (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

- ~~(b)~~(c) Bed and breakfast inn.
- ~~(e)~~(d) Boarding house.
- ~~(d)~~(e) Cemetery.
- ~~(e)~~(f) Civic club.
- ~~(f)~~(g) Country club.
- ~~(g)~~(h) Day care center.
- ~~(h)~~(i) Fire, police and rescue stations.
- ~~(i)~~(j) Funeral home.
- ~~(j)~~(k) Golf course.
- ~~(k)~~(l) Home business.
- ~~(l)~~(m) Nursing home.
- ~~(m)~~(n) Park, lighted or unlighted.
- ~~(n)~~(o) Playground, lighted or unlighted.
- ~~(o)~~(p) Private club.
- ~~(p)~~(q) Public utility plant, other.
- ~~(q)~~(r) Public utility plant, water or sewer.
- ~~(r)~~(s) Transition house.

Sec. 10-26. R-3 Residential District.

- (3) *Uses permitted by right.* The following uses are permitted by right in the R-3 district, subject to compliance with all approved plans and permits, development

standards and performance standards contained in this chapter, and with all other applicable regulations:

(a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

~~(a)~~(b) Church.

~~(b)~~(c) Dwelling, single-family.

~~(c)~~(d) Dwelling, two-family.

~~(d)~~(e) Home occupation.

~~(e)~~(f) Library.

~~(f)~~(g) Pet, household.

~~(g)~~(h) Public utility lines, other.

~~(h)~~(i) Public utility lines, water or sewer.

~~(i)~~(j) School.

~~(j)~~(k) Telecommunications tower, attached.

- (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

(a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.

(b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

~~(b)~~(c) Bed and breakfast homestay.

~~(c)~~(d) Boarding house.

~~(d)~~(e) Cemetery.

~~(e)~~(f) Civic club.

~~(f)~~(g) Country club.

~~(g)~~(h) Day care center.

~~(h)~~(i) Fire, police and rescue stations.

~~(i)~~(j) Funeral home.

~~(j)~~(k) Golf course.

~~(k)~~(l) Home business.

~~(l)~~(m) Manufactured home, Class A and Class B.

~~(m)~~(n) Medical care facility.

~~(n)~~(o) Nursing home.

~~(o)~~(p) Park, lighted or unlighted.

~~(p)~~(q) Playground, lighted or unlighted.

- ~~(q)~~(r) Public utility plant, other.
- ~~(r)~~(s) Public utility substations.
- ~~(s)~~(t) Transition house.

Sec. 10-27. RM-1 Multiple-Family Residential District.

- (4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of section 10-41(20) of County Code.
- ~~(a)~~(b) Boarding house.
- ~~(b)~~(c) Cemetery.
- ~~(c)~~(d) Civic club.
- ~~(d)~~(e) Country club.
- ~~(e)~~(f) Country inn.
- ~~(f)~~(g) Congregate care facility.
- ~~(g)~~(h) Day care center.
- ~~(h)~~(i) Dormitory.
- ~~(i)~~(j) Fire, police and rescue stations.
- ~~(j)~~(k) Funeral home.
- ~~(k)~~(l) Golf course.
- ~~(l)~~(m) Medical care facility.
- ~~(m)~~(n) Nursing home.
- ~~(n)~~(o) Park, lighted or unlighted.

Sec. 10-28. GB General Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~(b) Apartment as accessory use, maximum of two (2) per business structure.
- ~~(b)~~(c) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
- ~~(c)~~(d) Automotive, light truck, sales, service, rental and repair, excluding motor fuel sales.
- ~~(d)~~(e) Building material sales.
- ~~(e)~~(f) Business or trade school.

~~(f)~~(g) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
~~(g)~~(h) Cemetery.
~~(h)~~(i) Church.
~~(i)~~(j) Civic club.
~~(j)~~(k) Community center.
~~(k)~~(l) Conference or training center.
~~(l)~~(m) Crematorium.
~~(m)~~(n) Custom meat cutting, processing and sales (excluding slaughtering).
~~(n)~~(o) Day care center.
~~(o)~~(p) Equipment sales and service.
~~(p)~~(q) Financial services.
~~(q)~~(r) Fire, police, rescue facility.
~~(r)~~(s) Funeral home.
~~(s)~~(t) General store, convenience store without motor fuel sales.
~~(t)~~(u) Homeless shelter.
~~(u)~~(v) Hotel, motel.
~~(v)~~(w) Laundromat.
~~(w)~~(x) Library.
~~(x)~~(y) Medical care facility.
~~(y)~~(z) Motor vehicle rentals.
~~(z)~~(aa) Office, administrative, business or professional.
~~(aa)~~(bb) Park.
~~(bb)~~(cc) Park and ride lot.
~~(cc)~~(dd) Pet, household.
~~(dd)~~(ee) Post office.
~~(ee)~~(ff) Printing service.
~~(ff)~~(gg) Public utility lines, other distribution or collection facility.
~~(gg)~~(hh) Public utility lines, water or sewer.
~~(hh)~~(ii) Radio station; excluding tower.
~~(ii)~~(jj) Restaurant.
~~(jj)~~(kk) Retail sales and services.
~~(kk)~~(ll) School.
~~(ll)~~(mm) Shopping center.
~~(mm)~~(nn) Telecommunication tower, attached.
~~(nn)~~(oo) Veterinary practice, animal hospital.
~~(oo)~~(pp) Garden center.
~~(pp)~~(qq) School of special instruction.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:
- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
 - (b) Boarding house.
 - (c) Truck, trailer, heavy equipment sales, service, rental and repair.
 - (d) Building greater than fifty (50) feet in height.
 - (e) Contractors service establishment.
 - (f) Farm machinery sales and service.
 - (g) Feed and seed store and mill.
 - (h) General store, convenience store with motor fuel sales.
 - (i) Golf driving range, miniature golf and similar outdoor recreation.
 - (j) Kennel, commercial.
 - (k) Livestock market.
 - (l) Mini-warehouse.
 - (m) Outpatient mental health and substance abuse center.
 - (n) Public utility plant, other.
 - (o) Public utility substation.
 - (p) Public utility plant, water or sewer.
 - (q) Recreation establishment.
 - (r) Recycling facility.
 - (s) Service station.
 - (t) Shooting range, indoor.
 - (u) Telecommunication tower, freestanding.
 - (v) Transition house.
 - (w) Night club.
 - (x) Stone engraving and sales.
 - (y) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-29. CB Community Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:
- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Apartment as accessory use, maximum of two (2) per business structure.

~~(b)~~(c) Assembly of electrical, electronic devices, less than one thousand two hundred (1,200) square feet floor area.
~~(e)~~(d) Automotive, light truck, sales, service, rental and repair, without motor fuel sales, less than two thousand (2,000) square feet.
~~(d)~~(e) Business or trade school.
~~(e)~~(f) Cabinet shop, furniture, upholstery, craft industry of less than one thousand two hundred (1,200) square feet.
~~(f)~~(g) Cemetery.
~~(g)~~(h) Church.
~~(h)~~(i) Civic club.
~~(i)~~(j) Community center.
~~(j)~~(k) Conference or training center.
~~(k)~~(l) Crematorium.
~~(l)~~(m) Custom meat cutting, processing and sales (excluding slaughtering).
~~(m)~~(n) Day care facility.
~~(n)~~(o) Financial services.
~~(o)~~(p) Fire, police, rescue facility.
~~(p)~~(q) Funeral home.
~~(q)~~(r) General, convenience store less than three thousand (3,000) square feet, without motor fuel sales.
~~(r)~~(s) Homeless shelter.
~~(s)~~(t) Library.
~~(t)~~(u) Medical care facility.
~~(u)~~(v) Garden center.
~~(v)~~(w) Office, administrative, business or professional less than three thousand (3,000) square feet.
~~(w)~~(x) Park, unlighted.
~~(x)~~(y) Park and ride lot, unlighted.
~~(y)~~(z) Pet, household.
~~(z)~~(aa) Post office.
~~(aa)~~(bb) Printing service.
~~(bb)~~(cc) Public utility lines, other.
~~(cc)~~(dd) Public utility lines, water or sewer.
~~(dd)~~(ee) Restaurant.
~~(ee)~~(ff) Retail sales and services less than three thousand (3,000) square feet.
~~(ff)~~(gg) Roadside stand.
~~(gg)~~(hh) School.
~~(hh)~~(ii) School of special instruction.
~~(ii)~~(jj) Telecommunication tower, attached.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than one thousand two hundred (1,200) square feet floor area.
- (b) Boarding house.
- (c) Truck, trailer sales, service, rental and repair with outside operations.
- (d) Building greater than thirty-five (35) feet in height.
- (e) Contractors service establishment.
- (f) Convenience store less than three thousand (3,000) square feet, with motor fuel sales.
- (g) Dwelling, single-family or two-family.
- (h) Farm machinery sales and service.
- (i) Feed and seed store and mill.
- (j) Golf course.
- (k) Golf driving range.
- (l) Kennel, commercial.
- (m) Public utility plant, other.
- (n) Public utility substation.
- (o) Public utility plant, water or sewer.
- (p) Recreation establishment.
- (q) Recycling facility.
- (r) Telecommunication tower, freestanding.
- (s) Transition house
- (t) Veterinary practice, animal hospital.
- (u) Mini-warehouse.
- (v) Stone engraving and sales.
- (w) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-30. M-1 Manufacturing.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~(b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.

- ~~(b)~~(c) Automobile or mobile home assembling, painting, public garages, upholstering repairing, rebuilding, reconditioning, truck repairing or overhauling and tire retreading or recapping.
- ~~(e)~~(d) Cabinets, furniture and upholstery shop.
- ~~(d)~~(e) Civic club.
- ~~(e)~~(f) Contractor service establishment.
- ~~(f)~~(g) Crematorium.
- ~~(g)~~(h) Custom meat cutting, processing and sales.
- ~~(h)~~(i) Day care center.
- ~~(i)~~(j) Equipment sales and service.
- ~~(j)~~(k) Feed and seed store and mill.
- ~~(k)~~(l) Fire, police, rescue facility.
- ~~(l)~~(m) Fruit processing and storage.
- ~~(m)~~(n) Laboratory.
- ~~(n)~~(o) Laundry, dry cleaning plant.
- ~~(o)~~(p) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(p)~~(q) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(q)~~(r) Manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yarn and paint.
- ~~(r)~~(s) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(s)~~(t) Monument stone works.
- ~~(t)~~(u) Park and ride lot.
- ~~(u)~~(v) Pet, household.
- ~~(v)~~(w) Public utility lines, other.
- ~~(w)~~(x) Public utility line, water or sewer.
- ~~(x)~~(y) Railroad facility.
- ~~(y)~~(z) Recycling facility.
- ~~(z)~~(aa) Retail sales and service incidental to any other permitted use.
- ~~(aa)~~(bb) Telecommunication tower, attached.
- ~~(bb)~~(cc) Truck terminal.
- ~~(cc)~~(dd) Welding or machine shop.
- ~~(dd)~~(ee) Wholesale business, storage warehouse.
- ~~(ee)~~(ff) Wood preserving operation.

- (4) *Uses permissible special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- ~~(b)~~ (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).
- ~~(b)~~ (c) Building material sales yard.
- ~~(c)~~ (d) Cement manufacturing, concrete mixing plant, block plant and production of other concrete and asphaltic products.
- ~~(d)~~ (e) Contractors' storage yard and/or rental of equipment commonly used by contractors.
- ~~(e)~~ (f) Extractive industries and accessory uses including, but not limited to, the mining of minerals, the operation of oil and gas wells, and exploratory activities associated with extractive industry.
- ~~(f)~~ (g) Fertilizer manufacturing.
- ~~(g)~~ (h) Junkyards and automobile graveyards, provided the use is not within three hundred (300) feet of an existing dwelling.
- ~~(h)~~ (i) Kennel, commercial.
- ~~(i)~~ (j) Public utility plant, other.
- ~~(j)~~ (k) Public utility substation.
- ~~(k)~~ (l) Public utility plant, water.
- ~~(l)~~ (m) Refining, processing or distribution of petroleum, petroleum products, natural gas and other forms of liquid fuel, aboveground.
- ~~(m)~~ (n) Sawmill and planing mill, coal and wood yard.
- ~~(n)~~ (o) Storage of bulk petroleum products.
- ~~(o)~~ (p) Telecommunication tower, freestanding.
- ~~(p)~~ (q) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(q)~~ (r) Use similar to (a) through (o) above.
- ~~(r)~~ (s) Slaughterhouse.

Sec. 10-31. M-L Manufacturing-Light.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~ (b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- ~~(b)~~ (c) Business or trade school.

- ~~(e)~~(d) Cabinets, furniture and upholstery shop.
- ~~(d)~~(e) Civic club.
- ~~(e)~~(f) Conference or training center.
- ~~(f)~~(g) Crematorium.
- ~~(g)~~(h) Day care center.
- ~~(h)~~(i) Equipment sales and service.
- ~~(i)~~(j) Financial services.
- ~~(j)~~(k) Fire, police, rescue facility.
- ~~(k)~~(l) Flex-industrial use.
- ~~(l)~~(m) Homeless shelter.
- ~~(m)~~(n) Hotel, motel.
- ~~(n)~~(o) Laboratory.
- ~~(o)~~(p) Laundry, dry cleaning plant.
- ~~(p)~~(q) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(q)~~(r) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(r)~~(s) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(s)~~(t) Monument stone works.
- ~~(t)~~(u) Offices, administrative, business or professional.
- ~~(u)~~(v) Park and ride lot.
- ~~(v)~~(w) Pet, household.
- ~~(w)~~(x) Post office.
- ~~(x)~~(y) Printing service.
- ~~(y)~~(z) Public utility lines, other.
- ~~(z)~~(aa) Public utility lines, water or sewer.
- ~~(aa)~~(bb) Research, experimental, testing or development activity.
- ~~(bb)~~(cc) Retail sales and service incidental to any other permitted use.
- ~~(cc)~~(dd) Telecommunication tower, attached.
- ~~(dd)~~(ee) Veterinary service; animal hospital.
- ~~(ee)~~(ff) Wholesale business, storage warehouses.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Airport.
- (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).

- ~~(b)~~(c) Farm machinery sales and service.
- ~~(e)~~(d) Feed and seed stores and mill.
- ~~(d)~~(e) Kennel, indoor.
- ~~(e)~~(f) Mini-warehouse.
- ~~(f)~~(g) Motor vehicles rentals.
- ~~(g)~~(h) Recreation establishment.
- ~~(h)~~(i) Recycling facility.
- ~~(i)~~(j) Public utility plant, other.
- ~~(j)~~(k) Public utility substation.
- ~~(k)~~(l) Public utility plant, water or sewer.
- ~~(l)~~(m) Shooting range, indoor.
- ~~(m)~~(n) Telecommunication tower, freestanding.
- ~~(n)~~(o) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(o)~~(p) Use similar to (a) through (m) above.

Sec. 10-32. Pud-TND Planned Unit Development-Traditional Neighborhood Development District.

(5) *TND Subarea Standards and Uses.*

- (i) *Neighborhood Center:* Each PUD-TND neighborhood shall have a core made up primarily of commercial, residential, civic or institutional, and open space uses.
- (c) *Neighborhood Center Uses permitted by special use permit.* Any of the following uses may be allowed in conjunction with a permitted commercial use subject to approval of a special use permit filed as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.
 1. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear of the principal structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
 2. Outdoor storage, display and/or sales serving or associated with a by-right permitted use, if any portion of the use would be visible from a travelway.
 3. Individual buildings over twenty thousand (20,000) total square feet in size, or greater than ten thousand (10,000) square feet floorplate.
 4. Fuel sales with pumps located at the rear of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street.
 5. Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-32.1. Traditional Neighborhood Development Infill District.

- (7) *Uses permitted by special use permit.* Any of the following uses permitted by special exception may be approved as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.
- a. Retail Sales and Services, above ten thousand (10,000) square feet and no larger than twenty thousand (20,000) square feet in size;
 - b. Multifamily dwellings, including senior housing;
 - c. Nursing home, congregate care facility, and assisted living facilities.
 - d. Farm Market;
 - e. Hotels and motels;
 - f. Conference or training center;
 - g. Home business;
 - h. School;
 - i. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear or side of the structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
 - j. Transition house.
 - k. Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-33. PIN Planned Industrial.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:
- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
 - ~~(a)~~(b) Animal hospital.
 - ~~(b)~~(c) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
 - ~~(c)~~(d) Business or trade school.
 - ~~(d)~~(e) Cabinets, furniture and upholstery shop.
 - ~~(e)~~(f) Cemetery, mausoleum or memorial park.
 - ~~(f)~~(g) Civic club.
 - ~~(g)~~(h) Conference or training center.

- ~~(h)~~(i) Crematorium.
- ~~(i)~~(j) Day care center.
- ~~(j)~~(k) Equipment sales and service.
- ~~(k)~~(l) Financial services.
- ~~(l)~~(m) Fire, police, rescue facility.
- ~~(m)~~(n) Flex-industrial uses.
- ~~(n)~~(o) Homeless shelter.
- ~~(o)~~(p) Hotel, motel.
- ~~(p)~~(q) Laboratory.
- ~~(q)~~(r) Laundry, dry cleaning plant.
- ~~(r)~~(s) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- ~~(s)~~(t) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- ~~(t)~~(u) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- ~~(u)~~(v) Mini warehouse.
- ~~(v)~~(w) Monument stone works.
- ~~(w)~~(x) Office, administrative, business or professional.
- ~~(x)~~(y) Park and ride lot.
- ~~(y)~~(z) Pet, household.
- ~~(z)~~(aa) Post office.
- ~~(aa)~~(bb) Printing service.
- ~~(bb)~~(cc) Public utility lines, other.
- ~~(cc)~~(dd) Public utility lines, water or sewer.
- ~~(dd)~~(ee) Public utility substation.
- ~~(ee)~~(ff) Research, experimental, testing or development activity.
- ~~(ff)~~(gg) Retail sales and service incidental to any other permitted use.
- ~~(gg)~~(hh) Storage warehouse.
- ~~(hh)~~(ii) Telecommunication tower, attached.
- ~~(ii)~~(jj) Veterinary service.
- ~~(jj)~~(kk) Wholesale business.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).
- ~~(b)~~(c) Farm machinery sales and service.

- ~~(e)~~(d) Feed and seed store and mill.
- ~~(d)~~(e) Kennel, indoor.
- ~~(e)~~(f) Motor vehicles rentals.
- ~~(f)~~(g) Public utility plant, other.
- ~~(g)~~(h) Public utility plant, water or sewer.
- ~~(h)~~(i) Recreation, commercial.
- ~~(i)~~(j) Recycling facility.
- ~~(j)~~(k) Shooting range, indoor.
- ~~(k)~~(l) Telecommunication tower, freestanding.
- ~~(l)~~(m) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(m)~~(n) Uses similar to (a) through (l) above.

Sec. 10-34. PUD-COM Planned Unit Development-Commercial District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~(b) Apartment as accessory use.
- ~~(b)~~(c) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
- ~~(e)~~(d) Automotive, light truck, sales, service, rental and repair.
- ~~(d)~~(e) Building material sales.
- ~~(e)~~(f) Business or trade school.
- ~~(f)~~(g) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
- ~~(g)~~(h) Cemetery.
- ~~(h)~~(i) Church.
- ~~(i)~~(j) Civic club.
- ~~(j)~~(k) Conference or training center.
- ~~(k)~~(l) Convenience store, without motor fuel sales.
- ~~(l)~~(m) Crematorium.
- ~~(m)~~(n) Custom meat cutting, processing and sales (excluding slaughtering).
- ~~(n)~~(o) Day care center.
- ~~(o)~~(p) Equipment sales and service.
- ~~(p)~~(q) Financial services.
- ~~(q)~~(r) Fire, police, rescue facility.

~~(r)~~(s) Funeral home.
~~(s)~~(t) General store, convenience store without motor fuel sales.
~~(t)~~(u) Homeless shelter.
~~(u)~~(v) Hospital, medical center, emergency care.
~~(v)~~(w) Hotel, motel.
~~(w)~~(x) Library.
~~(x)~~(y) Medical care facility.
~~(y)~~(z) Motor vehicle rentals.
~~(z)~~(aa) Movie theater.
~~(aa)~~(bb) Office, administrative, business or professional.
~~(bb)~~(cc) Park.
~~(cc)~~(dd) Park and ride lot.
~~(dd)~~(ee) Pet, household.
~~(ee)~~(ff) Post office.
~~(ff)~~(gg) Printing service.
~~(gg)~~(hh) Public utility lines, other.
~~(hh)~~(ii) Public utility lines, water or sewer.
~~(ii)~~(jj) Radio station, excluding tower.
~~(jj)~~(kk) Recreation club.
~~(kk)~~(ll) Recreation establishment.
~~(ll)~~(mm) Recycling collection point.
~~(mm)~~(nn) Restaurant.
~~(nn)~~(oo) Retail sales and services.
~~(oo)~~(pp) School.
~~(pp)~~(qq) Shopping center.
~~(qq)~~(rr) Senior living facilities.
~~(rr)~~(ss) Telecommunication tower, attached.
~~(ss)~~(tt) Veterinary practice, animal hospital.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Amateur Radio Tower greater than 75 ft. (subject to requirements of Section 10-41(20) of County Code).
- ~~(b)~~(c) Building greater than fifty (50) feet in height.
- ~~(c)~~(d) Convenience store with gasoline sales.
- ~~(d)~~(e) Dwelling unit.
- ~~(e)~~(f) General store, convenience store with motor fuel sales.

- ~~(f)~~(g) Golf driving range, miniature golf and similar outdoor recreation.
- ~~(g)~~(h) Kennel.
- ~~(h)~~(i) Mini-warehouse.
- ~~(i)~~(j) Mobile home, Class A or B.
- ~~(j)~~(k) Motor vehicles rentals.
- ~~(k)~~(l) Public utility plant, other.
- ~~(l)~~(m) Public utility plant, water or sewer.
- ~~(m)~~(n) Public utility substation.
- ~~(n)~~(o) Public water or sewer treatment plant.
- ~~(o)~~(p) Recycling facility.
- ~~(p)~~(q) Service station.
- ~~(q)~~(r) Telecommunication tower, freestanding.
- ~~(r)~~(s) Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

Sec. 10-35. PUD-RES Planned Unit Development-Residential district.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).
- ~~(a)~~(b) Cemetery.
- ~~(b)~~(c) Church.
- ~~(c)~~(d) Civic club.
- ~~(d)~~(e) Conference or training center.
- ~~(e)~~(f) Congregate care facility.
- ~~(f)~~(g) Convenience store, without motor fuel sales.
- ~~(g)~~(h) Day care center.
- ~~(h)~~(i) Dwelling, multifamily (apartment).
- ~~(i)~~(j) Dwelling, single-family.
- ~~(j)~~(k) Dwelling, single-family attached (townhouse).
- ~~(k)~~(l) Dwelling, two-family (duplex).
- ~~(l)~~(m) Financial services.
- ~~(m)~~(n) Fire, police and rescue station.
- ~~(n)~~(o) Funeral home.
- ~~(o)~~(p) Golf course.
- ~~(p)~~(q) Home occupation (new).
- ~~(q)~~(r) Library.

- ~~(s)~~(s) Medical care facility.
- ~~(t)~~(t) Mobile home, Class A.
- ~~(u)~~(u) Nursing home.
- ~~(v)~~(v) Office, administrative, business or professional.
- ~~(w)~~(w) Park, lighted or unlighted.
- ~~(x)~~(x) Pet, household.
- ~~(y)~~(y) Playground, lighted or unlighted.
- ~~(z)~~(z) Post office.
- ~~(aa)~~(aa) Public facility.
- ~~(bb)~~(bb) Public utility lines, other.
- ~~(cc)~~(cc) Public utility lines, water or sewer.
- ~~(dd)~~(dd) Recreation establishment.
- ~~(ee)~~(ee) Recycling collection point.
- ~~(ff)~~(ff) Restaurant with gross floor area of less than two thousand (2,000) square feet.
- ~~(gg)~~(gg) Retail sales and services.
- ~~(hh)~~(hh) School.
- ~~(ii)~~(ii) Senior living facility.
- ~~(jj)~~(jj) Telecommunication tower, attached.

Sec. 10-36. PMR Planned Mobile Home Residential Park.

- (4) *Uses permissible by special use permit.*
 - (a) New Planned Mobile Home Residential Park-PMR.
 - (b) Existing Planned Mobile Home Residential Park-PMR.
 - (c) Retail convenience sales subject to subsection (7).
 - (d) Service facilities such as laundries, storage areas, recreation facilities.
 - (e) Expansion of existing PMR may be permitted when both existing and expansion portions comply with subsection (2).
 - (f) Amateur Radio Tower (subject to requirements of Section 10-41(20) of County Code).

Sec. 10-41. Supplemental district regulations.

- (20) Amateur Radio Towers. Amateur radio towers, as defined in Section 10-61 of this chapter, are permitted in the Agricultural (A-1), Conservation (C-1), Rural Residential (R-R), Residential (R-1), Residential (R-2), Residential (R-3), General Business (GB), Community Business (CB), Manufacturing (M-1), Manufacturing-Light (M-L), Planned Industrial (PIN), Planned Unit Development – Commercial (PUD-COM) and Planned Unit Development-Residential (PUD-RES) Districts, and permitted by special use in the Multiple-Family Residential (RM-1), Planned Unit Development-Traditional Neighborhood Development (PUD-TND), traditional

Neighborhood Development Infill and Planned Mobile Home Residential Park (PMR) Districts subject to the following requirements:

- (a) Maximum height: Seventy-five (75) feet. An amateur radio tower greater than seventy-five (75) feet shall require a special use permit in all zoning districts.
- (b) The set-back requirement for the tower shall be a distance equal to the height of the tower.
 - 1. Tower guys and accessory structures shall meet the minimum accessory building setback requirements of the district.
- (c) Towers shall be located in the side and rear yards only.
- (d) Towers shall be of a natural metal color or a non-reflective, neutral finish.

Sec. 10-61. Definitions.

Amateur Radio Tower: A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected, operated, and maintained by an amateur radio operator licensed by the FCC.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Matthew R. Gabriele
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
James D. Politis		

ORD-FY-14-13
AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING
OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA
BY AMENDING SECTIONS 10-21 THROUGH 10-36,
SECTION 10-41 AND SECTION 10-61 BY AMENDING
THE DEFINITION OF PARK AND RIDE LOT TO INCLUDE PARKING
FOR OTHER SHORT TERM TRAVELING PURPOSES IN ADDITION
TO WORK ALLOWABLE BY RIGHT UNDER CERTAIN USE LIMITATIONS
IF THE LOT HAS FIFTY OR LESS PARKING SPACES IN GB GENERAL BUSINESS,
CB COMMUNITY BUSINESS, M-1 MANUFACTURING, M-L MANUFACTURING-
LIGHT, PUD-TND PLANNED UNIT DEVELOPMENT-TRADITIONAL
NEIGHBORHOOD DEVELOPMENT, TRADITIONAL NEIGHBORHOOD
DEVELOPMENT INFILL, PIN PLANNED INDUSTRIAL, PUD-COM PLANNED UNIT
DEVELOPMENT-COMMERCIAL AND PUD-RES PLANNED UNIT DEVELOPMENT-
RESIDENTIAL DISTRICTS AND PARK AND RIDE LOT ALLOWABLE BY SPECIAL
USE PERMIT WITH MORE THAN FIFTY PARKING SPACES IN GB GENERAL

**BUSINESS, CB COMMUNITY BUSINESS, M-1 MANUFACTURING, M-L
MANUFACTURING-LIGHT, PUD-TND PLANNED UNIT DEVELOPMENT-
TRADITIONAL NEIGHBORHOOD DEVELOPMENT, TRADITIONAL
NEIGHBORHOOD DEVELOPMENT INFILL, PIN PLANNED INDUSTRIAL, PUD-COM
PLANNED UNIT DEVELOPMENT-COMMERCIAL AND PUD-RES PLANNED UNIT
DEVELOPMENT-RESIDENTIAL DISTRICTS AND PARK AND RIDE LOT
ALLOWABLE BY SPECIAL USE PERMIT IN A-1 AGRICULTURAL, C-1
CONSERVATION, R-R RURAL RESIDENTIAL, R-1 R-2, R-3 RESIDENTIAL, RM-1
MULTIPLE-FAMILY RESIDENTIAL AND PMR PLANNED MOBILE HOME
RESIDENTIAL PARK DISTRICTS**

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Entitled Zoning, Section 10-21 through 10-36, Section 10-41 and Section 10-61 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-21. A-1 Agricultural District.

(4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Campground.
- (e) Camp, boarding.
- (f) Civic club.
- (g) Contractor's storage yard.
- (h) Country club.
- (i) Country inn.
- (j) Custom meat cutting, processing and packaging.
- (k) Day care center.
- (l) Disposal facility, landfill.
- (m) Exploratory activities associated with extractive industries.
- (n) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- ~~(ss)~~(o) Flea market (also subject to requirements of article VI of the County Code).
- (p) Game preserve.

~~(p)~~(q) Garden center.
~~(q)~~(r) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
~~(r)~~(s) Golf course.
~~(s)~~(t) Golf driving range.
~~(t)~~(u) Grain mill, feed mill.
~~(u)~~(v) Home business.
~~(v)~~(w) Junkyard, automobile graveyard.
~~(w)~~(x) Kennel, commercial (refer to use limitations in subsection 7).
~~(x)~~(y) Landfill (see Disposal facility).
~~(y)~~(z) Livestock market.
~~(z)~~(aa) Park, lighted.
(bb) Park and ride lot.
~~(aa)~~(cc) Playground, lighted.
~~(bb)~~(dd) Public utility plant, other.
~~(cc)~~(ee) Public utility substations.
~~(dd)~~(ff) Public utility plant water or sewer (not including distribution or collection lines).
~~(ee)~~(gg) Recreational vehicle park.
~~(ff)~~(hh) Recycling collection points.
~~(gg)~~(ii) Repair shop, automotive (refer to use limitations in subsection 7).
~~(hh)~~(jj) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
~~(ii)~~(kk) Rural resort.
~~(jj)~~(ll) Sawmill.
(mm) School of special instruction.
~~(kk)~~(nn) Shooting range (as principal use or accessory to a gun shop). (Refer to use limitations in subsection 7).
~~(ll)~~(oo) Slaughterhouse.
~~(mm)~~(pp) Solid waste collection point.
~~(nn)~~(qq) Stable, commercial.
(rr) Stone engraving and sales.
~~(oo)~~(ss) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
~~(pp)~~(tt) Structures over forty (40) feet in height.
~~(qq)~~(uu) Telecommunications tower, freestanding.
~~(rr)~~(vv) Transition house.

Sec. 10-22. C-1 Conservation District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Campground.
- (c) Bed and breakfast inn.
- (d) Park, unlighted.
- (e) Park and ride lot.
- ~~(e)~~(f) Playground, unlighted.
- ~~(f)~~(g) Sawmill, temporary.
- ~~(g)~~(h) Structures over sixty-five (65) feet in height.
- ~~(h)~~(i) Telecommunications tower, freestanding.

Sec. 10-23. R-R Rural Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Cemetery.
- (d) Civic club.
- (e) Country club.
- (f) Day care center.
- (g) Fire, police and rescue stations.
- (h) Golf course.
- (i) Golf driving range.
- (j) Home business.
- (k) Park, lighted.
- (l) Park and ride lot.
- ~~(l)~~(m) Playground, lighted.
- ~~(m)~~(n) Public utility substations.
- ~~(n)~~(o) Public utility plant, water or sewer.
- ~~(o)~~(p) Stable, commercial.

- ~~(+)(q)~~ Structures over fifty (50) feet in height.
- ~~(p)(r)~~ Telecommunications tower, freestanding.
- ~~(q)(s)~~ Veterinary practice, animal hospital.

Sec. 10-24. R-1 Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Cemetery.
- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.
- (l) Nursing home.
- (m) Park, lighted or unlighted.
- (n) Park and ride lot.
- ~~(+)(o)~~ Playground, lighted or unlighted.
- ~~(+)(p)~~ Private club.
- ~~(p)(q)~~ Public utility plant, other.
- ~~(q)(r)~~ Public utility plant, water or sewer.
- ~~(+)(s)~~ Transition house.

Sec. 10-25. R-2 Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a

rezoning or other use permitted by a special use permit from the board of supervisors.

- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Cemetery.
- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.
- (l) Nursing home.
- (m) Park, lighted or unlighted.
- (n) Park and ride lot.
- ~~(n)~~(o) Playground, lighted or unlighted.
- ~~(o)~~(p) Private club.
- ~~(p)~~(q) Public utility plant, other.
- ~~(q)~~(r) Public utility plant, water or sewer.
- ~~(r)~~(s) Transition house.

Sec. 10-26. R-3 Residential District.

(4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast homestay.
- (c) Boarding house.
- (d) Cemetery.
- (e) Civic club.
- (f) Country club.
- (g) Day care center.
- (h) Fire, police and rescue stations.
- (i) Funeral home.
- (j) Golf course.
- (k) Home business.

- (l) Manufactured home, Class A and Class B.
- (m) Medical care facility.
- (n) Nursing home.
- (o) Park, lighted or unlighted.
- (p) Park and ride lot.
- ~~(p)~~(q) Playground, lighted or unlighted.
- ~~(q)~~(r) Public utility plant, other.
- ~~(s)~~(s) Public utility substations.
- ~~(s)~~(t) Transition house.

Sec. 10-27. RM-1 Multiple-Family Residential District.

- (4)(i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Boarding house.
- (b) Cemetery.
- (c) Civic club.
- (d) Country club.
- (e) Country inn.
- (f) Congregate care facility.
- (g) Day care center.
- (h) Dormitory.
- (i) Fire, police and rescue stations.
- (j) Funeral home.
- (k) Golf course.
- (l) Medical care facility.
- (m) Nursing home.
- (n) Park, lighted or unlighted.
- (o) Park and ride lot.
- ~~(p)~~(p) Playground, lighted or unlighted.
- ~~(q)~~(q) Public utility substations.
- ~~(r)~~(r) Senior living facility.
- ~~(s)~~(s) Transition house.

Sec. 10-28. GB General Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Apartment as accessory use, maximum of two (2) per business structure.
- (b) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
- (c) Automotive, light truck, sales, service, rental and repair, excluding motor fuel sales.
- (d) Building material sales.
- (e) Business or trade school.
- (f) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
- (g) Cemetery.
- (h) Church.
- (i) Civic club.
- (j) Community center.
- (k) Conference or training center.
- (l) Crematorium.
- (m) Custom meat cutting, processing and sales (excluding slaughtering).
- (n) Day care center.
- (o) Equipment sales and service.
- (p) Financial services.
- (q) Fire, police, rescue facility.
- (r) Funeral home.
- ~~(ss)~~(s) Garden center.
- ~~(st)~~(t) General store, convenience store without motor fuel sales.
- ~~(tu)~~(u) Homeless shelter.
- ~~(tv)~~(v) Hotel, motel.
- ~~(vw)~~(w) Laundromat.
- ~~(wx)~~(x) Library.
- ~~(xy)~~(y) Medical care facility.
- ~~(yz)~~(z) Motor vehicle rentals.
- ~~(zaa)~~(aa) Office, administrative, business or professional.
- ~~(aab)~~(bb) Park.
- ~~(bbc)~~(cc) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- ~~(eed)~~(dd) Pet, household.
- ~~(dee)~~(ee) Post office.
- ~~(eef)~~(ff) Printing service.
- ~~(ffg)~~(gg) Public utility lines, other distribution or collection facility.
- ~~(ggh)~~(hh) Public utility lines, water or sewer.
- ~~(hhi)~~(ii) Radio station; excluding tower.
- ~~(iij)~~(jj) Restaurant.
- ~~(jjk)~~(kk) Retail sales and services.
- ~~(kkll)~~(ll) School.

~~(pp)~~(mm) School of special instruction.
~~(H)~~(nn) Shopping center.
~~(mm)~~(oo) Telecommunication tower, attached.
~~(nn)~~(pp) Veterinary practice, animal hospital.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

(a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
(b) Boarding house.
(c) Truck, trailer, heavy equipment sales, service, rental and repair.
(d) Building greater than fifty (50) feet in height.
(e) Contractors service establishment.
(f) Farm machinery sales and service.
(g) Feed and seed store and mill.
(h) General store, convenience store with motor fuel sales.
(i) Golf driving range, miniature golf and similar outdoor recreation.
(j) Kennel, commercial.
(k) Livestock market.
(l) Mini-warehouse.
~~(w)~~(m) Night club.
~~(nn)~~(n) Outpatient mental health and substance abuse center.
(o) Park and ride lot of more than fifty (50) spaces.
~~(n)~~(p) Public utility plant, other.
~~(o)~~(q) Public utility substation.
~~(p)~~(r) Public utility plant, water or sewer.
~~(q)~~(s) Recreation establishment.
~~(r)~~(t) Recycling facility.
~~(s)~~(u) Service station.
~~(t)~~(v) Shooting range, indoor.
~~(x)~~(w) Stone engraving and sales.
~~(u)~~(x) Telecommunication tower, freestanding.
~~(v)~~(y) Transition house.

Sec. 10-29. CB Community Business.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and

performance standards contained in this chapter and with all other applicable regulations:

- (a) Apartment as accessory use, maximum of two (2) per business structure.
- (b) Assembly of electrical, electronic devices, less than one thousand two hundred (1,200) square feet floor area.
- (c) Automotive, light truck, sales, service, rental and repair, without motor fuel sales, less than two thousand (2,000) square feet.
- (d) Business or trade school.
- (e) Cabinet shop, furniture, upholstery, craft industry of less than one thousand two hundred (1,200) square feet.
- (f) Cemetery.
- (g) Church.
- (h) Civic club.
- (i) Community center.
- (j) Conference or training center.
- (k) Crematorium.
- (l) Custom meat cutting, processing and sales (excluding slaughtering).
- (m) Day care facility.
- (n) Financial services.
- (o) Fire, police, rescue facility.
- (p) Funeral home.
- (q) General, convenience store less than three thousand (3,000) square feet, without motor fuel sales.
- (r) Homeless shelter.
- (s) Library.
- (t) Medical care facility.
- (u) Garden center.
- (v) Office, administrative, business or professional less than three thousand (3,000) square feet.
- (w) Park, unlighted.
- (x) ~~Park and ride lot, unlighted.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (y) Pet, household.
- (z) Post office.
- (aa) Printing service.
- (bb) Public utility lines, other.
- (cc) Public utility lines, water or sewer.
- (dd) Restaurant.
- (ee) Retail sales and services less than three thousand (3,000) square feet.
- (ff) Roadside stand.
- (gg) School.

- (hh) School of special instruction.
- (ii) Telecommunication tower, attached.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than one thousand two hundred (1,200) square feet floor area.
- (b) Boarding house.
- (c) Truck, trailer sales, service, rental and repair with outside operations.
- (d) Building greater than thirty-five (35) feet in height.
- (e) Contractors service establishment.
- (f) Convenience store less than three thousand (3,000) square feet, with motor fuel sales.
- (g) Dwelling, single-family or two-family.
- (h) Farm machinery sales and service.
- (i) Feed and seed store and mill.
- (j) Golf course.
- (k) Golf driving range.
- (l) Kennel, commercial.
- ~~(m)~~(m) Mini-warehouse.
- (n) Park and ride lot of more than fifty (50) spaces.
- ~~(m)~~(o) Public utility plant, other.
- ~~(n)~~(p) Public utility substation.
- ~~(o)~~(q) Public utility plant, water or sewer.
- ~~(p)~~(r) Recreation establishment.
- ~~(q)~~(s) Recycling facility.
- ~~(r)~~(t) Stone engraving and sales.
- ~~(s)~~(u) Telecommunication tower, freestanding.
- ~~(t)~~(v) Transition house
- ~~(u)~~(w) Veterinary practice, animal hospital.

Sec. 10-30. M-1 Manufacturing.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.

- (b) Automobile or mobile home assembling, painting, public garages, upholstering repairing, rebuilding, reconditioning, truck repairing or overhauling and tire retreading or recapping.
- (c) Cabinets, furniture and upholstery shop.
- (d) Civic club.
- (e) Contractor service establishment.
- (f) Crematorium.
- (g) Custom meat cutting, processing and sales.
- (h) Day care center.
- (i) Equipment sales and service.
- (j) Feed and seed store and mill.
- (k) Fire, police, rescue facility.
- (l) Fruit processing and storage.
- (m) Laboratory.
- (n) Laundry, dry cleaning plant.
- (o) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (p) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (q) Manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yarn and paint.
- (r) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (s) Monument stone works.
- (t) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (u) Pet, household.
- (v) Public utility lines, other.
- (w) Public utility line, water or sewer.
- (x) Railroad facility.
- (y) Recycling facility.
- (z) Retail sales and service incidental to any other permitted use.
- (aa) Telecommunication tower, attached.
- (bb) Truck terminal.
- (cc) Welding or machine shop.
- (dd) Wholesale business, storage warehouse.
- (ee) Wood preserving operation.

(4) *Uses permissible special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- (b) Building material sales yard.
- (c) Cement manufacturing, concrete mixing plant, block plant and production of other concrete and asphaltic products.
- (d) Contractors' storage yard and/or rental of equipment commonly used by contractors.
- (e) Extractive industries and accessory uses including, but not limited to, the mining of minerals, the operation of oil and gas wells, and exploratory activities associated with extractive industry.
- (f) Fertilizer manufacturing.
- (g) Junkyards and automobile graveyards, provided the use is not within three hundred (300) feet of an existing dwelling.
- (h) Kennel, commercial.
- (i) Park and ride lot of more than fifty (50) spaces.
- ~~(j)~~(j) Public utility plant, other.
- ~~(k)~~(k) Public utility substation.
- ~~(l)~~(l) Public utility plant, water.
- ~~(m)~~(m) Refining, processing or distribution of petroleum, petroleum products, natural gas and other forms of liquid fuel, aboveground.
- ~~(n)~~(n) Sawmill and planing mill, coal and wood yard.
- ~~(o)~~(o) Slaughterhouse.
- ~~(p)~~(p) Storage of bulk petroleum products.
- ~~(q)~~(q) Telecommunication tower, freestanding.
- ~~(r)~~(r) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(s)~~(s) Use similar to (a) through (o) above.

Sec. 10-31. M-L Manufacturing-Light.

(3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- (b) Business or trade school.
- (c) Cabinets, furniture and upholstery shop.
- (d) Civic club.

- (e) Conference or training center.
- (f) Crematorium.
- (g) Day care center.
- (h) Equipment sales and service.
- (i) Financial services.
- (j) Fire, police, rescue facility.
- (k) Flex-industrial use.
- (l) Homeless shelter.
- (m) Hotel, motel.
- (n) Laboratory.
- (o) Laundry, dry cleaning plant.
- (p) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (q) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (r) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (s) Monument stone works.
- (t) Offices, administrative, business or professional.
- (u) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (v) Pet, household.
- (w) Post office.
- (x) Printing service.
- (y) Public utility lines, other.
- (z) Public utility lines, water or sewer.
- (aa) Research, experimental, testing or development activity.
- (bb) Retail sales and service incidental to any other permitted use.
- (cc) Telecommunication tower, attached.
- (dd) Veterinary service; animal hospital.
- (ee) Wholesale business, storage warehouses.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Airport.
- (b) Farm machinery sales and service.
- (c) Feed and seed stores and mill.
- (d) Kennel, indoor.
- (e) Mini-warehouse.
- (f) Motor vehicles rentals.

- (g) Recreation establishment.
- (h) Recycling facility.
- (i) Park and ride lot of more than fifty (50) spaces.
- ~~(+)(j)~~ Public utility plant, other.
- ~~(+)(k)~~ Public utility substation.
- ~~(+)(l)~~ Public utility plant, water or sewer.
- ~~(+)(m)~~ Shooting range, indoor.
- ~~(+)(n)~~ Telecommunication tower, freestanding.
- ~~(+)(o)~~ Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(+)(p)~~ Use similar to (a) through (m) above.

Sec. 10-32. PUD-TND Planned Unit Development-Traditional Neighborhood Development District.

(5) *TND Subarea Standards and Uses.*

- (i) *Neighborhood Center:* Each PUD-TND neighborhood shall have a core made up primarily of commercial, residential, civic or institutional, and open space uses.

(b) *Permitted Neighborhood Center Uses by Category:*

1. *Commercial uses.*

- ~~k~~a. Church.
- ~~i~~b. Conference or training center.
- ~~g~~c. Day Care Center.
- ~~e~~d. Financial Institutions.
- ~~h~~e. Funeral Home.
- ~~d~~f. Hotels and Motels.
- ~~l~~g. Laundromat.
- ~~f~~h. Medical Care Facility.
- ~~e~~i. Office, administrative, business or professional.
- j. Park and ride lot, of fifty (50) or fewer spaces.
- ~~j-k~~. Public or private parking structures, areas, and lots that are accessory to any permitted or permissible commercial, residential, civic, institutional or open space use.
- ~~b-l~~. Restaurants and Outdoor seating (see Section 10-32(3)(c)).
- ~~a-m~~. Retail Sales and Services including, convenience stores and general stores without fuel sales.

- (c) *Neighborhood Center Uses permitted by special use permit.* Any of the following uses may be allowed in conjunction with a permitted commercial use subject to approval of a special use permit filed as part of the initial

development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

1. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear of the principal structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
- ~~4~~2. Fuel sales with pumps located at the rear of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street.
3. Individual buildings over twenty thousand (20,000) total square feet in size, or greater than ten thousand (10,000) square feet floorplate.
- ~~24~~. Outdoor storage, display and/or sales serving or associated with a by-right permitted use, if any portion of the use would be visible from a travelway.
5. Park and ride lot of more than fifty (50) spaces.

Sec. 10-32.1. Traditional Neighborhood Development Infill District.

(6) *Permitted traditional neighborhood infill district uses by category:*

1. *Commercial uses.*

- ~~ba~~a. Convenience stores and general stores without fuel sales.
- ~~fb~~b. Day care center.
- ~~dc~~c. Financial services.
- ~~hd~~d. Funeral home.
- ~~ke~~e. Laundromat.
- ~~if~~f. Medical care facility.
- ~~ig~~g. Mixed use buildings (integrated horizontally or vertically) which include residential and commercial uses.
- ~~eh~~h. Office, administrative, business or professional, less than twenty thousand (20,000) square feet in size, and no more than ten thousand (10,000) square feet per floor plate.
- i. Park and ride lot, of fifty (50) or fewer spaces.
- ~~gj~~j. Parking areas that are accessory to any permitted or permissible commercial, residential, civic, institutional or open space use.
- ~~lk~~k. Printing services.
- ~~el~~l. Restaurants and outdoor seating associated with Restaurants subject to the provisions of section 11.d, below.
- ~~am~~m. Retail Sales and Services, no larger than ten thousand (10,000) square feet in size.

- (7) *Uses permitted by special use permit.* Any of the following uses permitted by special exception may be approved as part of the initial development plan at the time of rezoning; however, the board of supervisors may impose conditions on such uses even if approved as part of the initial development plan.

- ~~f~~a. Conference or training center;
- ~~i~~b. Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear or side of the structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street.
- ~~d~~c. Farm Market;
- ~~g~~d. Home business;
- e. Hotels and motels;
- ~~b~~f. Multifamily dwellings, including senior housing;
- ~~e~~h. Nursing home, congregate care facility, and assisted living facilities.
- i. Park and ride lot of more than fifty (50) spaces.
- ~~a~~j. Retail Sales and Services, above ten thousand (10,000) square feet and no larger than twenty thousand (20,000) square feet in size;
- ~~h~~k. School;
- ~~j~~l. Transition house.

Sec. 10-33. PIN Planned Industrial.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Animal hospital.
- (b) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- (c) Business or trade school.
- (d) Cabinets, furniture and upholstery shop.
- (e) Cemetery, mausoleum or memorial park.
- (f) Civic club.
- (g) Conference or training center.
- (h) Crematorium.
- (i) Day care center.
- (j) Equipment sales and service.
- (k) Financial services.
- (l) Fire, police, rescue facility.

- (m) Flex-industrial uses.
- (n) Homeless shelter.
- (o) Hotel, motel.
- (p) Laboratory.
- (q) Laundry, dry cleaning plant.
- (r) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (s) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (t) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (u) Mini warehouse.
- (v) Monument stone works.
- (w) Office, administrative, business or professional.
- (x) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (y) Pet, household.
- (z) Post office.
- (aa) Printing service.
- (bb) Public utility lines, other.
- (cc) Public utility lines, water or sewer.
- (dd) Public utility substation.
- (ee) Research, experimental, testing or development activity.
- (ff) Retail sales and service incidental to any other permitted use.
- (gg) Storage warehouse.
- (hh) Telecommunication tower, attached.
- (ii) Veterinary service.
- (jj) Wholesale business.

- (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- (b) Farm machinery sales and service.
- (c) Feed and seed store and mill.
- (d) Kennel, indoor.
- (e) Motor vehicles rentals.
- (f) Park and ride lot of more than fifty (50) spaces.
- ~~(f)~~(g) Public utility plant, other.
- ~~(g)~~(h) Public utility plant, water or sewer.

- ~~(h)~~(i) Recreation, commercial.
- ~~(i)~~(j) Recycling facility.
- ~~(j)~~(k) Shooting range, indoor.
- ~~(k)~~(l) Telecommunication tower, freestanding.
- ~~(l)~~(m) Use listed in subsection (3), if a manufacturing process is to take place outside.
- ~~(m)~~(n) Uses similar to (a) through (l) above.

Sec. 10-34. PUD-COM Planned Unit Development-Commercial District.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Apartment as accessory use.
- (b) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
- (c) Automotive, light truck, sales, service, rental and repair.
- (d) Building material sales.
- (e) Business or trade school.
- (f) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
- (g) Cemetery.
- (h) Church.
- (i) Civic club.
- (j) Conference or training center.
- (k) Convenience store, without motor fuel sales.
- (l) Crematorium.
- (m) Custom meat cutting, processing and sales (excluding slaughtering).
- (n) Day care center.
- (o) Equipment sales and service.
- (p) Financial services.
- (q) Fire, police, rescue facility.
- (r) Funeral home.
- (s) General store, convenience store without motor fuel sales.
- (t) Homeless shelter.
- (u) Hospital, medical center, emergency care.
- (v) Hotel, motel.
- (w) Library.
- (x) Medical care facility.

- (y) Motor vehicle rentals.
- (z) Movie theater.
- (aa) Office, administrative, business or professional.
- (bb) Park.
- (cc) ~~Park and ride lot.~~ Park and ride lot, of fifty (50) or fewer spaces.
- (dd) Pet, household.
- (ee) Post office.
- (ff) Printing service.
- (gg) Public utility lines, other.
- (hh) Public utility lines, water or sewer.
- (ii) Radio station, excluding tower.
- (jj) Recreation club.
- (kk) Recreation establishment.
- (ll) Recycling collection point.
- (mm) Restaurant.
- (nn) Retail sales and services.
- (oo) School.
- (pp) Shopping center.
- (qq) Senior living facilities.
- (rr) Telecommunication tower, attached.
- (ss) Veterinary practice, animal hospital.

(4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Building greater than fifty (50) feet in height.
- (c) Convenience store with gasoline sales.
- (d) Dwelling unit.
- (e) General store, convenience store with motor fuel sales.
- (f) Golf driving range, miniature golf and similar outdoor recreation.
- (g) Kennel.
- (h) Mini-warehouse.
- (i) Mobile home, Class A or B.
- (j) Motor vehicles rentals.
- (k) Park and ride lot of more than fifty (50) spaces.
- ~~(k)~~(l) Public utility plant, other.

- ~~(h)~~(m)Public utility plant, water or sewer.
- ~~(m)~~(n)Public utility substation.
- ~~(n)~~(o)Public water or sewer treatment plant.
- ~~(o)~~(p)Recycling facility.
- ~~(p)~~(q)Service station.
- ~~(q)~~(r)Telecommunication tower, freestanding.
- ~~(r)~~(s)Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

Sec. 10-35. PUD-RES Planned Unit Development-Residential district.

- (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter:

- (a) Cemetery.
- (b) Church.
- (c) Civic club.
- (d) Conference or training center.
- (e) Congregate care facility.
- (f) Convenience store, without motor fuel sales.
- (g) Day care center.
- (h) Dwelling, multifamily (apartment).
- (i) Dwelling, single-family.
- (j) Dwelling, single-family attached (townhouse).
- (k) Dwelling, two-family (duplex).
- (l) Financial services.
- (m) Fire, police and rescue station.
- (n) Funeral home.
- (o) Golf course.
- (p) Home occupation (new).
- (q) Library.
- (r) Medical care facility.
- (s) Mobile home, Class A.
- (t) Nursing home.
- (u) Office, administrative, business or professional.
- (v) Park, lighted or unlighted.
- (w) Park and ride lot, of fifty (50) or fewer spaces.
- ~~(w)~~(x) pet, household.

- ~~(x)~~(y) Playground, lighted or unlighted.
- ~~(y)~~(z) Post office.
- ~~(z)~~(aa) Public facility.
- ~~(aa)~~(bb) Public utility lines, other.
- ~~(bb)~~(cc) Public utility lines, water or sewer.
- ~~(ee)~~(dd) Recreation establishment.
- ~~(dd)~~(ee) Recycling collection point.
- ~~(ee)~~(ff) Restaurant with gross floor area of less than two thousand (2,000) square feet.
- ~~(ff)~~(gg) Retail sales and services.
- ~~(gg)~~(hh) School.
- ~~(hh)~~(ii) Senior living facility.
- ~~(ii)~~(jj) Telecommunication tower, attached.

- (4) *Uses permitted by special use permit.* Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application.

- (a) Park and ride lot of more than fifty (50) spaces.

Sec. 10-36. PMR Planned Mobile Home Residential Park.

- (4) *Uses permissible by special use permit.*
- (a) New Planned Mobile Home Residential Park-PMR.
 - (b) Existing Planned Mobile Home Residential Park-PMR.
 - (c) Retail convenience sales subject to subsection (7).
 - (d) Service facilities such as laundries, storage areas, recreation facilities.
 - (e) Expansion of existing PMR may be permitted when both existing and expansion portions comply with subsection (2).
 - (f) Park and ride lot.

Sec. 10-41. Supplemental district regulations.

- (21) *Park and Ride Lot.*
- (a) Park and ride lots shall be exempt from all maximum lot coverage requirements contained in this ordinance.
 - (b) Park and ride lots shall meet the minimum yard requirements of the zoning district in which they are located, except when adjacent to a structure used by children for school purposes, in which case the park and ride lot shall be set back a minimum of 1,000 feet from the common property line.
 - (c) Park and ride lots shall comply with the off-street parking and loading requirements listed in Sections 10-44 (2) (c) through 10-44 (2) (f).

- (d) Park and ride lots shall comply with the parking lot landscaping and screening requirements listed in Section 10-43 (9).

Sec. 10-61. Definitions.

Park and ride lot: A public or private parking lot located, and designed for, and intended to be used solely by commuters to park their automobiles, light trucks, ~~or light~~ vans, motorcycles or bicycles while they travel to and from their place of work or school, or while sightseeing, shopping, running errands, or otherwise travelling in the short-term using buses, car pools or other means. Such lot ~~may~~ shall be lighted for security purposes.

The vote on the forgoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
William H. Brown	None	Matthew R. Gabriele
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
James D. Politis		

NEW BUSINESS

R-FY-14-46

**IRREVOCABLE ELECTION BY THE COUNTY OF MONTGOMERY, VIRGINIA
TO NOT PARTICIPATE IN VIRGINIA LOCAL DISABILITY PROGRAM**

On a motion by Annette S. Perkins, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, By enacting Chapter 11.1 of Title 51.1 of the Code of Virginia, the Virginia General Assembly has established the Virginia Local Disability Program ("VLDP") for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code §51.1-169; and

WHEREAS, For purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before September 1, 2013, requesting that its eligible employees not participate in VLDP as of the VLDP effective date of January 1, 2014, because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meet or exceed the coverage set out in Chapter 11.1 of Title 51.1 of the Code of Virginia, with the exception of long term care coverage, by January 1, 2014; and

WHEREAS, It is the intent of the County of Montgomery, Virginia (55160), to make this irrevocable election that the County's eligible employees not participate in VLDP.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to irrevocably elect for the County of Montgomery, Virginia to not participate in VLDP because the County has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees; and

BE IT FURTHER RESOLVED By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby further agrees that as an integral part of making this irrevocable election, the County of Montgomery, Virginia certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

Adopted this 16th day of October, 2013.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
William H. Brown	None	Matthew R. Gabriele
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
James D. Politis		

R-FY-14-47
RESOLUTION APPROVING THE
DISABILITY PROGRAM PARTICIPATION AGREEMENT
WITH VIRGINIA ASSOCIATION OF COUNTIES RISK POOL

On a motion by Mary W. Biggs, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The Virginia General Assembly has established the Virginia Local Disability Program (“VLDP”) for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code §51.1-169; and

WHEREAS, The County of Montgomery, Virginia irrevocably elected to not participate in VLDP because the County has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meet or exceed the coverage set out in Chapter 11.1 of Title 51.1 of the Code of Virginia, by January 1, 2014; and

WHEREAS, The County of Montgomery, Virginia desires to enter into a Disability Program Participation Agreement with the Virginia Association of Counties Risk Pool (“VACORP”) for the purpose of providing short-term and long-term disability benefits to its eligible employees.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees to enter into a Disability Program Participation Agreement with the Virginia Association of Counties Risk Pool (“VACORP”) for the purpose of providing short-term and long-term disability benefits to its eligible employees.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby further agrees to authorize F. Craig Meadows, County Administrator, to execute the Disability Program Participation Agreement with VACORP on behalf of the County of Montgomery, Virginia.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	Matthew R. Gabriele
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
William H. Brown		
James D. Politis		

R-FY-14-48
RESOLUTION ACCEPTING THE CONVEYANCE FROM
THE SCHOOL BOARD OF MONTGOMERY COUNTY
OF THE FORMER BLACKSBURG HIGH SCHOOL PROPERTY LOCATED AT
520 PATRICK HENRY DRIVE IN BLACKSBURG, VIRGINIA

On a motion by Annette S. Perkins, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The School Board of Montgomery County (“the School Board”) has constructed and opened for the 2013-2014 school year a new Blacksburg High School located at 2401 Bruin Lane in Blacksburg, Virginia; and

WHEREAS, The School Board adopted a Resolution on April 26, 2011 declaring its intent to declare the former Blacksburg High School Property located at 520 Patrick Henry Drive in Blacksburg (“the Property”) as surplus to its needs once the new Blacksburg High School was completed and opened for use; and

WHEREAS, The School Board further authorized the conveyance of the Property located at 520 Patrick Henry Drive, Blacksburg, Virginia to the Montgomery County Board of Supervisors with the understanding that the Board of Supervisors would sell the Property and use the proceeds of such sale to fund a portion of the costs for the new Auburn High School, new Auburn Middle School and the new Blacksburg High School; and

WHEREAS, The Board of Supervisors desires to accept the conveyance of the Property located at 520 Patrick Henry Drive, Blacksburg, Virginia owned by the School Board, acknowledging that the Board of Supervisors intends to sell the Property and appropriate the proceeds of such sale after reimbursing the County for its costs in selling the Property, to fund a portion of the cost of the new Auburn High School, new Auburn Middle School and the new Blacksburg High School.

NOW, THEREFORE, BE IT RESOLVED By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to accept from the School Board the conveyance of the Property located at 520 Patrick Henry Drive, Blacksburg, Virginia owned by the School Board and further authorizes the Chair to execute the Deed accepting the Property on behalf of the Board of Supervisors and to sign any and all other documents required to close on the Property.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Christopher A. Tuck	None	Matthew R. Gabriele
Gary D. Creed		
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
James D. Politis		

**R-FY-14-49
REVENUE SHARING PROGRAM
FOR FY 2014-2015**

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

WHEREAS, The Revenue Sharing Program allows the Virginia Department of Transportation (VDOT) to provide state funds to match local funds for the construction, maintenance, or improvements of secondary highways; and

WHEREAS, The Montgomery County Board of Supervisors desires to submit an application for an allocation of funds of up to \$500,000 through the Virginia Department of Transportation Fiscal Year 2014-2015 Revenue Sharing Program to be matched on a dollar-for-dollar basis by Montgomery County ; and

WHEREAS, The \$500,000 in state funds to be matched with the \$500,000 provided locally is to fund the following road projects:

1. Reconstruction (new construction) of Mt. Pleasant Road (SR 639) in a 1.5 mile section from Archer Road (Route 742) to Split Rail Road (Route 675) in the amount of \$250,000 in state funds and \$250,000 in local funds. This project is located in District C.

2. Reconstruction (new construction) of Brush Creek Road (SR 617) for 0.8 mile section south of the intersection with Poff School Road (Route 601) in the amount of \$250,000 in state funds and \$250,000 in local funds. This project is located in District D; and

WHEREAS, The Board of Supervisors has agreed to appropriate \$500,000 as their share for FY 2014-2015 Revenue Sharing funds, with \$500,000 appropriated from the County's Capital Reserve.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the filing of an application for an allocation of \$500,000 through the Virginia Department of Transportation Revenue Sharing Program to be matched with local funds of \$500,000 to be provided locally by the County of Montgomery for the above construction projects and authorizes the County Administrator to execute all documents, on behalf of the Board of Supervisors, in order to make application for funding through the VDOT Revenue Sharing Program.

BE IT FURTHER RESOLVED, That the Board of Supervisors shall, upon further analysis, determine whether to have VDOT administer the projects or choose to locally administer these projects.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

R-FY-14-50
A RESOLUTION ADOPTING THE
COUNTY'S LEGISLATIVE PRIORITIES
FOR 2014

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby supports legislation that may be introduced in the 2014 General Assembly session that ends the transfer of state funding shortfalls to localities and the continued shift of services traditionally provided by the state to local government.

The Board further supports legislation that strengthens localities' ability to fund and deliver services to our citizens including:

- ***Ending Unfunded Mandates on Local Government*** by reducing state mandates in proportion to state revenue reductions. Also, shifting the delivery of state services such as transportation should end. **RESPONSIBILITY FOR SECONDARY ROADS SHOULD NOT BE SHIFTED TO LOCALITIES.**
- ***Ending Future State Funding Reductions*** in the two areas where the state has served as a partner with local government: public education and public safety.
- ***Strengthening the Diversity of Local Revenues by Sharing Income Taxes or Other Revenue Sources in Support of Local Services*** by distributing a percentage of individual income tax revenues, providing the authority to levy a local income tax, or allowing other sources to generate revenue locally for locally delivered services.
- ***Strengthening the County's Revenue Base by Enacting Equal Taxing Authority*** by eliminating the distinction in the taxing authority of Virginia's cities and counties.
- ***Recognizing the State's Role in Funding Quality Education*** by fully funding the state Standards of Quality (SOQ), basing teacher pay raises on actual positions, not just SOQ.
- ***Ensuring 100% of Administrative Funds for the Comprehensive Services Act (CSA)*** and increasing state matching share for all CSA costs.
- ***Providing State Funding for 100% of the Costs of Optical Scan Voting Machines, 100% of the Costs of Electronic Pollbooks and 100% of the Operating Costs of the Electoral Board/General Registrar.***
- ***Increasing State Aid to Library System*** and ensuring no new cuts in state aid to the library system.
- ***Processing and Marketing of Industrial Hemp*** Montgomery County supports efforts by all levels of government to allow cultivation, processing and marketing of industrial hemp.
- ***Mandatory Water and Sewer Connections*** Montgomery County requests legislation adding Montgomery County to the list of counties who can require mandatory water and sewer connections pursuant to the authority contained in Section 15.2-2110 of the 1950 Code of Virginia, as amended.
- ***Eliminate Split Voting Precincts in Montgomery County*** Montgomery County requests that technical adjustments be made to the boundaries of House Districts 7, 8, and 12 in Montgomery County in order to eliminate split voting precincts in Montgomery County

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

R-FY-14-51
RESOLUTION AMENDING THE
RULES OF ORDER

On a motion by William H. Brown, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees to amend the Board's Rules of Order adopted on January 14, 2013 as follows:

Rule 4 ~~A subject(s) may be added to the Agenda following the Delegation portion of the meeting.~~

Items requiring Board action not on the Board's agenda that are proper for Board consideration may be added during the meeting under the Addendum portion of the Agenda by a motion to Amend the Agenda, followed by a second and majority vote of the Board.

Rule 18 ~~Non-Agenda items may be included for discussion and action during Board Members' Reports segment of the meeting.~~

The Board Member report portion of the Agenda is intended to provide Board Members an opportunity to provide updates and information of a general interest to fellow Board Members, staff and the General Public.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Matthew R. Gabriele
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
James D. Politis		

R-FY-14-52
HUCKLEBERRY TRAIL
REQUEST TO THE COMMONWEALTH TRANSPORTATION
BOARD FOR ENHANCEMENT PROJECT FUNDS FOR
THE HUCKLEBERRY TRIAL/CHRISTIANSBURG
EXTENSION PROJECT

On a motion by Christopher A. Tuck, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, In accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation consider an enhancement project in Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors requests the Commonwealth Transportation Board to establish a project for the improvement of the Huckleberry Trail/Christiansburg Extension.

BE IT FURTHER RESOLVED, That the Board of Supervisors hereby agrees to pay a minimum 20 percent of the total costs for planning, design, right-of-way, and construction of the project, and that, if the Montgomery County Board of Supervisors subsequently elects to cancel this project the Board of Supervisors hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 16th day of October, 2013.

The vote on the forgoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
William H. Brown	None	Matthew R. Gabriele
Mary W. Biggs		
Christopher A. Tuck		
Gary D. Creed		
Annette S. Perkins		
James D. Politis		

A-FY-14-44
TRANSFER TO
SCHOOL CAPITAL PROJECTS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014 for the function and in the amount as follows:

451209	Transfer to School Capital Projects	\$700,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451205	Designated Fund Balance	\$700,000
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BE IT FURTHER RESOLVED, That the School Capital Projects fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2014 for the function and in the amount as follows:

6600	Future School Projects	\$700,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451100	Transfer from General Fund	\$700,000
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Said resolution appropriates monies collected in FY 13 resulting from the two cent real estate tax increase for future school capital needs.

The vote on the forgoing resolution was as follows:

AYE

Mary W. Biggs
Gary D. Creed
Annette S. Perkins
William H. Brown
James D. Politis

NAY

Christopher A. Tuck

ABSENT

Matthew R. Gabriele

Supervisor Tuck commented that in past years the School Board used any roll-over money for one-time maintenance items, such as purchase of new school buses. However, the School Board has requested to use the balance remaining from FY 13 in their operating budget. Supervisor Tuck would like to appropriate the \$700,000 into the County's capital funds in case it is needed for other needs, such as fire and rescue or Juvenile Detention Home renovations.

RECESS

The Board recessed at 9:00 p.m. and reconvened at 9:10 p.m.

INTO WORK SESSION

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Emergency Operations Plan
2. Stormwater Management Plan
3. MS4
4. FY 2015-2020 Six-Year Road Plan for Interstate and Primary Roads

The vote on the forgoing motion was as follows:

AYE

Christopher A. Tuck
Gary D. Creed
Annette S. Perkins
William H. Brown
Mary W. Biggs
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

Emergency Operations Plan

Neal Turner, Emergency Services Coordinator, provided an overview of Montgomery County's Emergency Operations Plan (EOP) and revisions. The Code of Virginia requires each local jurisdiction to prepare and keep current a local operations plan. Every four years, each local agency is required to conduct a comprehensive review of its emergency operations plan to ensure that the plan remains current. The Board of Supervisors adopted the current emergency operations plan in November 2009. Several revisions to the plan are needed in order to conform to the recommendations by the Virginia Department of Emergency Management. A family assistance center will be provided during emergency/disaster events to provide assistance to individuals dealing with loss of life or property destruction. Montgomery County will also partner with the Virginia Tech Animal/Vet School to provide shelter to animals displaced during emergencies. Mr. Turner reported that Montgomery County, including the two towns, has over 400 volunteers that have received numerous hours of training to prepare for emergencies. A resolution to adopt the Emergency Operations Plan will need to be approved by the Board of Supervisors in November 2013.

Stormwater Management Plan

Kevin Byrd, Executive Director for the New River Valley Planning District Commission, presented information on the Virginia Stormwater Management Act. Mr. Byrd stated the purpose of the Act is to address quantity and quality of stormwater runoff. The Virginia Department of Environmental Quality will oversee the program. The NRVPCD is helping the region with the implementation of the stormwater program.

He provided a few highlights of the Stormwater Management Act as follows:

- A land disturbing permit fee is required to the State
- VA Stormwater Management Program Triggers:
 - Land disturbing activities greater than 1 acre
 - Common Plan of Development
 - In addition to Erosion Sediment Control permit and local permits
- Permit fees: \$2,700 minimum, \$750 to state
- Requires maintenance agreements
- Grandfathering: projects prior to July 1, 2012
- Additional Staff needed to manage the program

Role of Government Staff:

- Certification as Combined Administrator
- Plan Review
- Site Inspection
- Best Management Practices database/reporting
- Communication with Developer + Future Permit Holders
- BMP maintenance agreements
- Stormwater management system inventory
- Digitizing physical location
- Cataloging structural and routine maintenance measures
- Preparing annual maintenance reports
- Completing post-construction inspections

Next steps

- December 15, 2013
 - Local Review Complete
 - Draft VSMP Package due to DEQ
- April 1, 2014
 - Localities adopt final VSMP package
 - Non-compliance
- July 1, 2014
 - Local Program Begins

MS4 (Municipal Separate Storm Sewer System)

Mike Lawless, Draper Aden Associates, provided an overview on the MS4. MS4 is another regulation mandated by the State which requires Urbanized Areas to regulate storm water in these areas. The current US Census data defined Montgomery County as an Urbanized Area in four areas of the County: Prices Fork, Merrimac, Belview/Peppers Ferry Corridor, Plum Creek/Radford Road Corridor, and Elliston.

Montgomery County is required to apply for a MS4 permit in order to oversee stormwater control measures in the urbanized areas. There are six minimum control measures required by the state as follows:

1. Public education and outreach on storm water impacts.
2. Public involvement and participation.
3. Illicit discharge detection and elimination.
4. Construction site stormwater runoff control.
5. Post-construction stormwater management in new development and redevelopment.
6. Pollution prevention/good housekeeping for municipal operations.

Mr. Lawless also reported that part of the MS4 permit the County must address all downstream pollutants (TMDL-total maximum daily loads) that are runoff into streams. TMDLs include sediment, bacteria and other types of waste. Current TMDLs for Crab Creek, Mill Creek, Stroubles Creek and Roanoke River.

Mr. Lawless discussed compliance strategies from traditional treatment measures to non-traditional measures. The MS4 and TMDL control measures are to help protect drinking water sources, improve water quality in the Crab Creek, Mill Creek, Stroubles Creek and Roanoke River. The measures put in place will help mitigate existing flooding and drainage concerns. Mr. Lawless stated at this time it is hard to predict the total annual compliance cost to the County. Several items come into play such as program development, additional staff, and changes to the operational procedures.

In conclusion, Mr. Lawless stated the MS4 creates a unique challenge to Montgomery County as they also have to develop a stormwater management plan. Draper Aden is continuing to work with the NRVPCD and the County to develop a plan.

FY 2015-2020 Six-Year Road Plan for Interstate and Primary Roads

The County Administrator reported the Commonwealth Transportation Board (CTB) will conduct nine public meetings across the state in October and November 2013 to give stakeholders the opportunity to review and provide comments on projects and programs to be included in the Fiscal Year 2015-2020 Six-Year Improvement Program (FY15-20 SYIP) for Interstate and Primary roads, including highway, rail, and public transportation initiatives.

The meeting for the Salem District will be held on Wednesday, October 30, 2013 at Northside High School in Salem.

The County Administrator referenced the Board's resolution adopted in 2012 and recommended several changes for consideration in the FY 2014-2019 resolution to include the following:

- Route 114 Upgrade in unincorporated area of County
- Route 8 Upgrades - standard width, straightening dangerous curves & adding shoulders
- Exit 114 Interchange Upgrades to improve safety
- Exit 118 Park & Ride Lot Upgrades - provide additional parking spaces
- Smart Road - completion of final phase

Mainly we would ask that the recommended improvements in the 2013 Route 8 and Route 11/460 Studies be implemented. This would include a number of things, but specifically, the intersection improvements on Route 8 at Life Drive, Smith Creek Road and Camp Carysbrook Road, as well intersection improvements and median closures along Route 11/460.

A resolution outlining the Board's priorities for the FY 2015-2020 Six-Year Road Plan for Interstate and Primary Roads will be on the October 28th agenda for consideration.

OUT OF WORK SESSION

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Matthew R. Gabriele
Annette S. Perkins		
William H. Brown		
Mary W. Biggs		
Christopher A. Tuck		
James D. Politis		

COUNTY ADMINISTRATOR'S REPORT

The County Administrator reported on the following:

- Steve Sandy, Planning Director, submitted his resignation as Planning Director effective in January 2014. He and his family have been called to do missionary work in Uganda, Africa.

- School Resource Officer Grant(SRO)- Montgomery County has chosen to decline the four SRO grants that were awarded to place School Resource Officers in the four elementary schools located in the County. Staff believed there were too many variables attached to the grant, and unknown costs in the future. The grant funding only provided for a percentage of cost, which decreased every year the grant was awarded. Also, the grant was only for one year and localities have to apply every year. The County Administrator reported that the Falling Branch Elementary School have implemented new security measures.
- Claytor Lake Project No. 739 – The County received information from American Electric Power regarding their Recreation Management Plan which includes projects at Claytor Lake in 2014 as follows:

Allisonia:

Two portable toilets
Two picnic tables
Bank fishing
Fishing Pier or courtesy pier adjacent to ramp at Allisonia

New River Access:

Two portable toilets
Two picnic tables
Fishing Pier adjacent to ramp (or fishing pier at Allisonia)

AEP is accepting comments on these projects and Montgomery County would like to forward comments requesting the project be expanded to include improvements to the Montgomery County section of the New River. Portable toilets, picnic tables and fishing pier would be a great asset to the New River. The County Administrator asked the Board for their support to send a letter to American Electric Power requesting them to expand their project to include Montgomery County. By consensus, the Board supported the County Administrator sending a letter.

BOARD MEMBERS REPORTS

All Board members expressed their appreciation to Steve Sandy for his work as Planning Director for Montgomery County. They wished him luck with his future endeavors and mission work in Uganda.

Supervisor Brown reported at the last Western Virginia Regional Jail Authority meeting he brought up Supervisor Tuck's suggestion that the recently purchased property that adjoins the jail could be used to house and train dogs by the inmates. The property has six (6) dog runs behind the house. It was reported that the house no longer has electricity or water and that the dog runs need considerable repair, that it would not be cost effective to bring them up to standards needed to house dogs. Supervisor Brown also reported that if the Board of Supervisors was still interested in starting a community garden at the regional jail then he would report that back at the next WVRJA meeting.

Supervisor Tuck thanked Supervisor Brown for relaying his suggestion to the WVRJA. He is still interested in seeing if the jail could provide inmates to start a community garden. He will check with the Bar Association to see if they could provide some start- up funds for this project.

Supervisor Biggs asked the County Administrator if the MCPS had a timeline for upgrading the security measures at all the school buildings. The County Administrator reported that he believes the Superintendent is working on a school security policy; however, he does not know when the plan will be presented.

New Blacksburg High School/ Blacksburg Middle School –Supervisor Biggs reported she received several inquiries concerning the traffic congestion after school at the Blacksburg Middle School and Blacksburg High School. Apparently, all the school buses cannot leave at the same time which causes a backup along Bruin Lane. There is a stop light at the intersection of Prices Fork and Bruin Lane but she believes it needs to be regulated to allow additional time to allow for the buses to leave in a timely manner. The County Administrator will pass this information to the Town of Blacksburg officials.

Supervisor Tuck - Amtrax Rail Service to the New River Valley: Supervisor Tuck reported that Amtrax may want to extend their service to Pulaski County. He suggested the County may want to work with Pulaski County in order to get support in getting Amtrax to the New River Valley.

Supervisor Creed reported the Montgomery Regional Solid Waste Authority will start taking hazardous materials at their facilities six days a week.

INTO CLOSED MEETING -10:30 p.m.

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.
1. Project # 2013-006
 2. Project # 2013-026

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
 1. Motor Mile Park
 2. Old Blacksburg Middle School Property
 3. Park and Ride Lot
 4. Alleghany Springs Consolidated Site
- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
 1. Parks and Recreation Commission
 2. Social Services Board
 3. Personnel

The vote on the forgoing motion was as follows:

AYE

Christopher A. Tuck
Mary W. Biggs
William H. Brown
Annette S. Perkins
Gary D. Creed
James D. Politis

NAY

None

ABSENT

Matthew R. Gabriele

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the forgoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Christopher A. Tuck	None	Matthew R. Gabriele
Mary W. Biggs		
William H. Brown		
Annette S. Perkins		
Gary D. Creed		
James D. Politis		

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

Christopher A. Tuck
Mary W. Biggs
William H. Brown
Annette S. Perkins
Gary D. Creed
James D. Politis

NAYS

None

ABSENT DURING VOTE

Matthew R. Gabriele

ABSENT DURING MEETING

Matthew R. Gabriele

ADJOURNMENT

The Chair declared the meeting adjourned to Monday, October 28, 2013 at 6:00 p.m. The meeting adjourned at 11:22 p.m.

APPROVED	_____	ATTEST:	_____
	James D. Politis		F. Craig Meadows
	Chair		County Administrator